

September 23, 2014

Meeting with representatives of Scott's Restaurant, the Port of Oakland and BCDC

1. Status of Permit Applications
2. Status of Violations
3. Administrative Civil Liability
4. Enforcement Options

Deck extension - Port common area  
Port maintenance

Sponged roof to reduce greenhouse effect

Remove lighting / replace it w/ LEDs.

Remove planters.

move storage area or less stuff to store  
Juli - bollards, benches, trash containers

AK Penalties

S. Fyde Remove pavilion

AK - Enl. Proceeds

JB - Negotiated Settlement Agreement

Scott's / Port - copermittes

BM - More applications forward

Juli - sent Port's proposal for use to city

RSinkoff

- 1 structural issues
- 2 pa proposal
- 3 operations - clarify it.

R.S. Resolution of planter doorway + PA. +  
clarification of operations →  
convert denial to approval  
Can pavilion work for Scott's P?

RS Steve<sup>F.</sup> reminds us that he needs <sup>\$</sup>permanent  
~~walls~~ columns to affix a door to to meet  
life safety issues.

BM want to get this over.  
talk amongst yourselves; we'll do the same  
contested or consent order?

mtg week of 10

10/15 Scott's 10:00 - 11:30



Subject: BODC Permits

9-23-2014  
Misty

Name

Affiliation

A. Klein

BODC

Ellen Miramontes

~~BODC~~

John Dowers

BODC

Douglas Herman

Port Environmental

John Wain

" CRE

Ramiro Carabez

Scott's G.M.

Steve Hansen

w/Scott's

STEVE FAGALDE

SCOTT'S SEAFOOD

Richard Sinkoff

Port of Oakland

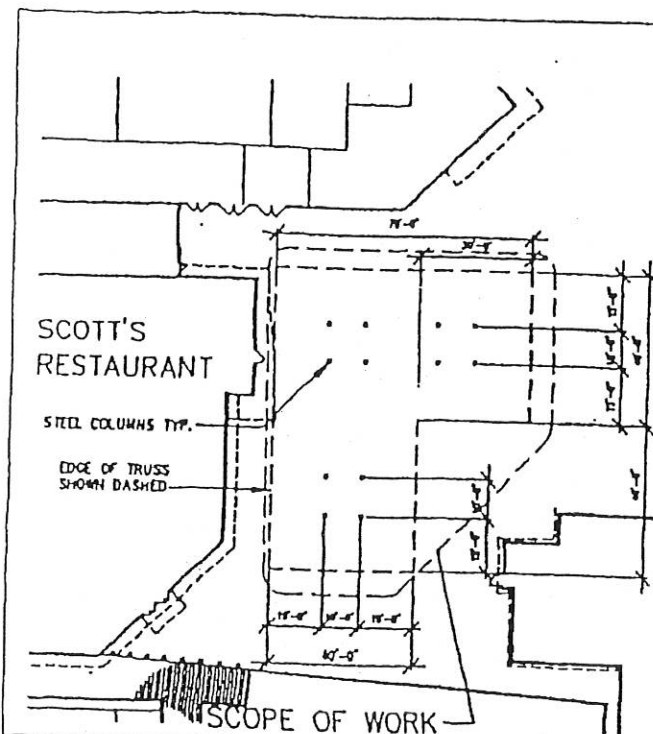
BRAD MCCREA

bed co.

# BCDC Recommendations for Public Access Improvements

- translucent roof panels
- deck extension
- increased # glass panels

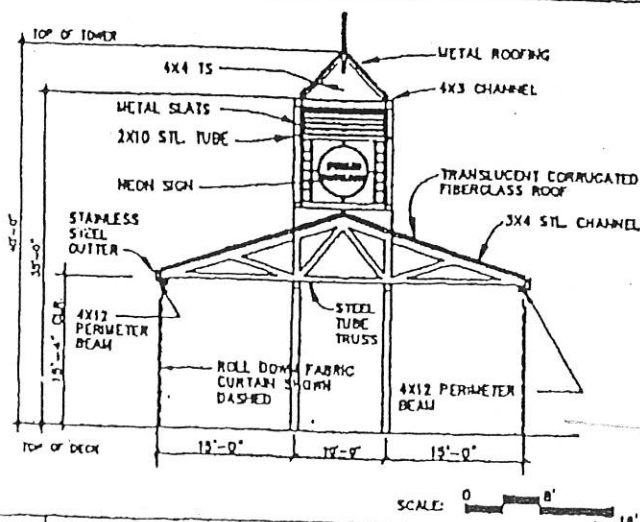
- site furniture matching with JLS
- hanging flower pots
- paving enhancements



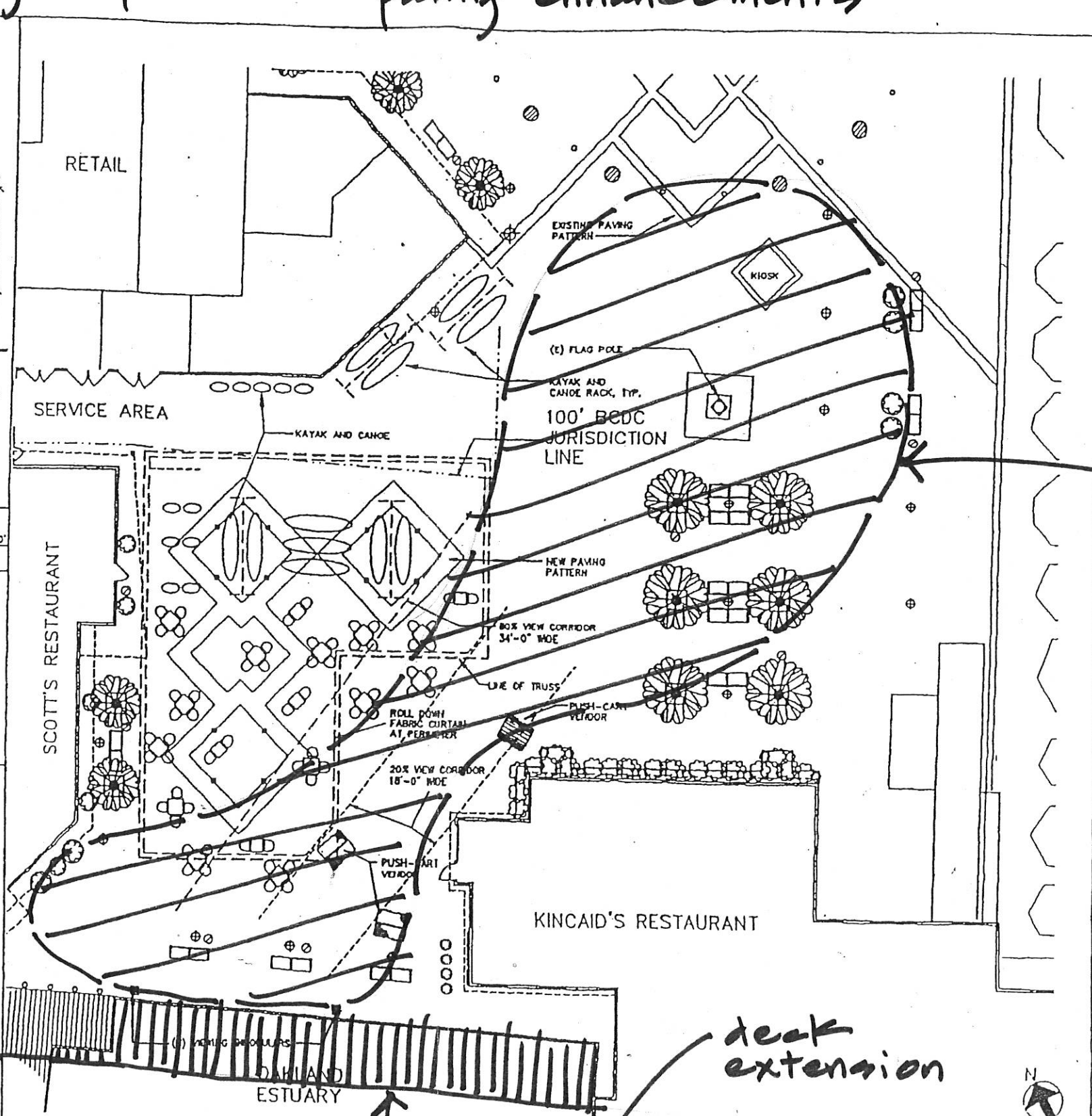
1 PAVILION PLAN

## LEGEND

- |                   |                         |
|-------------------|-------------------------|
| ○ TRASH CAN       | □ (E) BENCH             |
| ⊕ LIGHT POLE      | ○ PLANTER               |
| ● FIXED BOLLARD   | ⊗ TABLE & CHAIRS        |
| • MOVABLE BOLLARD | ■ (H) VIEWING BINOCULAR |
| ○ FLAG POLE       | ⊢ (H) LIGHT FIXTURE     |
| (RL) RELOCATED    | (E) EXISTING            |
| (N) NEW           |                         |



2 TOWER SECTION



3 SITE PLAN

Permit No. 19-85(B)  
Corrected Amendment No. Ten  
Exhibit B

paving enhancements and flower pots in this area

97192984

No.	Revision	By
1	BCDC COMMENTS	SK
2	1/2/95	SK

Job No. 94270  
Date 1/2/95  
Drawn by SK  
Checked by SK  
Sheet Title

SITE PLAN  
TOWER SECTION &  
DIMENSION PLAN

EXHIBIT B

SK-2 of 4

**Subject:** Weekly Update 5/23/2014

**Date:** Friday, May 23, 2014 3:59:09 PM Pacific Daylight Time

**From:** Steve Fagalde

**To:** Brad McCrea

**CC:** Steve Fagalde, Steve Hanson, Adrienne Klein, Richard Sinkoff

Brad--

I wanted to give you my Friday update. I'm currently out of town and will be back Tuesday.

1-application fees--as I mentioned in my voicemail, these were paid to BCDC timely and cashed in October 2013. Steve Hanson forward the copies of the cashed checks

2-Steve Hanson spoke with the City of Oakland and his email info to me was:

Planner Jose Herrera-Preza from the City called me back the earliest he can see me (and it would be great if you could be there) is Friday May 30th at 9:30 AM. While we have submitted applications and plans in the past, we need to submit our final project. They will certify that it is Categorically exempt form CEQA under Category 1 which is good. They will notice the project and also provide design review. I will have printed several copies (as required) of the full set of drawings including the construction design build drawings from East Bay Blue Print.

He will want all correspondence from BCDC as well for their records. I tried to get him to do this earlier next week, but I guess they are becoming more overwhelmed with work these days.

3-required signage-although this was not brought up as still outstanding, I know that it is. There are four "public shore" signs that need to be posted. I went to Hawkins traffic sign in emeryville on Thursday and paid to have them made. They will be ready by Wednesday. I'll have them posted

In addition, I met with the Deputy Mayor of Oakland the other day about this issue and he stated the city would assist in any way they could for the discretionary approvals as they recognize the importance of the pavilion to the community

I will be back on Tuesday and I assure you that this is my priority.

Have a good weekend

Steve Fagalde  
(510) 302-0999

Sent from my iPhone



**Subject:** Finally a response to your email of July 25th 2014 Public Pavilion - Scott's Restaurant - Jack London Square

**Date:** Sunday, September 7, 2014 9:41:31 PM Pacific Daylight Time

**From:** Steven Hanson

**To:** Adrienne Klein

**CC:** stevef@scottscorp.com, rsinkoff@portoakland.com, jbraun@portoakland.com

Hello Adrienne,

I have finally been able to produce the corrective drawings including the roof plan for the issues you raise in your July 25th email .

Please contact me if you have any additional questions or need more information.

I will be out of town early this week but will mail you a hard copy of this, plus the exhibits.  
I will provide you full sized printed plans as you request, just let me know when you need them.

If you have any questions, please contact me.

Thanks

Steve Hanson

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)

415-314-0172

My website:

<http://sites.google.com/site/hansonstevenwork/>



September 8, 2014

Ms. Adrienne Klein  
Chief of Enforcement  
Bay Conservation and Development Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, CA 94102-7019

Dear Ms. Klein;

Thank you for your follow-up phone call to Steve Hanson on Monday, July 11, 2014. We appreciate your response to our letter of July 9<sup>th</sup> and will endeavor to answer your questions so that we can move the process forward. This is a revised response to our draft letter sent to you, dated August 13, 2014 and reflects a more thorough understanding of site conditions as it relates to the existing and modified roof structure. We hope this responds to your questions more accurately and as well this issue is reflected in the modified drawings we have now included.

The following comments are in response to your email dated Friday, July 25<sup>th</sup>, 2014. We have include your comments (in blue) and our responses as follows:

**2. Project Description:**

(BCDC)- A. Please confirm that you are requesting authorization to retain the as-built improvement made to new roofline that joins the Pavilion to the Building over the breezeway north of the stage. Also, please provide the square-footage of that structure.

(Response)-A. We are requesting that these improvements remain and be permitted under our application. We have provided the drawings. There is 60 sf of additional standing seam roofing connecting from the original overhang roof that was part of the Sea Wolf restaurant to the Pavilion's roof as illustrated in the drawings on A.1.4., which is a new drawing we revised on September 1, 2014.

(BCDC)-B. Your plans depict that you will locate all of the planters within BCDC's shoreline band jurisdiction, however, your letter indicated that fewer than the total number will be stored in the shoreline band. Please clarify whether or not all 16 planters are proposed within the shoreline band.

(Response)-B. We apologize for the lack of clarity here. Since it was determined that the entire Pavilion, including the southern edge of the Water Street I Building is within the shoreline Band it is necessary to retain all of the 16 proposed planters within the BCDC jurisdiction area. As depicted in our most recent plan submittal on Sheet A.1.2 (newly revised date 09/01/2014) the planters will be stored along the north edge of the Pavilion's north wall storage system as well as within the breezeway area. This area is the loading and service area for both the Water Street I Building and Scott's Restaurant and we feel that this area is least impacted by the storage of these planters when the Pavilion walls are stored in the public use position. The planters are heavy enough as well, to protect the north wall system during times that deliveries, trash and other services are being performed by large trucks. As we have agreed in our earlier communication, when the Pavilion is in its Private-Use mode many of the planters will be redeployed to other strategic locations just outside of the wall system's perimeter.

These locations are depicted in the most recent submittal on Plan Sheet A.1.1 (newly revised - 9/01/2014).

### 3. Project Plans:

(BCDC)-A. Please revise Sheets A.1.1, A.1.2, A.1.3, and A.3.1 to remove the two black lines between the breezeway and the stage, which appear to depict a wall where no wall is proposed.

(Response)-A. We have made those revisions, and we hope this clarifies this, the new dashed lines represent the perimeter roof line for the Pavilion.

(BCDC)-B. Regarding Sheet A.1.2, while we have not made a determination on whether we can find the planters consistent with BCDC's policies, we suggest that you revise the proposal to relocate at least three of the planters located on the north wall, which extend beyond the retractable wall panels when they are in the public use position. Storing planters in the currently proposed location defeats the purpose of shortening the walls from 40 feet to 30 feet. Alternate storage location include south of the storage area or in a double layer along the north wall of Scott's Restaurant.

(Response)-B. We will work the BCDC to determine the best position for the planters in their storage location. In our revised sheet submittal (dated 9/01/14) A.1.2 and A.1.3 we have shown a proposed modification of the planter storage which we hope addresses your concern, but we would welcome further feedback.

(BCDC)-C. Please revise Sheet A.1.3 to include the planters.

(Response)-C. We have included the planters in Sheet A. 1.3, (revised date 9-1-14) as requested.

(BCDC)-D. Please create a new sheet depicting the former rooflines of Scott's Restaurant and the Pavilion as they existed prior to construction of the storage area and breezeway, and depicting the current joined rooflines as they exist today.

(Response)-D. We have created these plans and included them as part of the new plan sheet labeled sheet A.1.4. It should be noted that the existing roof plan for Scott's restaurant (formerly the Sea Wolf restaurant) was not changed substantially from its original design when the restaurant was built in the early 1950's. The roof design of the Sea Wolf included extensive roof overhangs that jutted out to exaggerated points as an architectural effort to depict the sharp bows of a ship. This roof line in the east (rear) of the restaurant was a reflection of the more prominent roof lines near the front door of the restaurant.

As noted, on Sheet A.1.4., on the roof plan illustration on the left, (entitled: Roof Plan 1 - *Prior to Construction of the Storage Area and Breezeway*) the restaurant roof extended to and overlapped slightly the newer Pavilion roof's edge at one of its points. The roof line is also depicted in the "Approved BCDC Site Plan" copied in the drawing on the top of Sheet A.1.4. as a dotted line as noted on the drawing. On the illustration on the lower right of Sheet A.1.4. (entitled: Roof Plan 2 - *Current Roof Condition*), the illustration shows that there was in fact a more recent connection between the Pavilion and Scott's consisting of a standing seam metal roof. This connection overlaps the both roofs but covers 60 sq. ft. of the area in what is proposed as the breezeway between the two buildings.



Also noted in this drawing on Sheet A.1.4., the lower right illustration (Roof Plan-2) shows the extent of the storage building roof and including the fact that that roof covers an area of 104 sq. ft. Since there are overhanging roofs on both sides the roof for the storage building covers less space than the storage buildings floor dimensions at 255 sq. ft.

Finally on the top right hand side of Sheet A.1.4., (1/A.1.4) there are photographs of the current roof configuration showing for example the standing seam roof connection over the breezeway (from the perspective of both bottom and top) and the roof section covering the storage room. We have additional photographs which we can provide as part of our submittal if that would clarify these roof connections further.

(BCDC)-E. Though not presently required to file your applications as complete, we will likely need one or two new permit exhibits, once the public access in each permit is determined, whether it be diminished, changed or new.

(Response)-E. We stand ready to provide exhibits as necessary.

4. Lease Area. (BCDC) -John Bowers has shared with me what I understand to be the current copy of the lease area, which generates the following comments and questions:

(BCDC)-A. If the Port were to lease all of the areas that Scott's proposes to use as part of these two amendment requests, it appears that we could limit the amendment to Permit No. 1985.019A to a request to convert the public access area occupied by the storage area (and planters) from public to private use. We could then authorize the entire proposed project exclusively in Permit 1985.01B.

(Response)-A. As was discussed with Steve Hanson on the phone, it is our understanding that this issue is not one that is critical to proceeding to the next step. However, Steve Hanson has had previous conversations with the staff at Commercial Real Estate Department of the Port and the Port has indicated that it very much wants to make sure that property in use by Scott's for private purposes or to support the Pavilion or other Scott's functions is formally included in an amended lease area with the corresponding rental adjustments, if required. Such a lease amendment requires action on the part of the Board of Port Commission so adequate time is required. We appreciate BCDC's willingness to move forward with consideration of our applications, pending further action by the Port, if in fact our understanding is correct.

(BCDC)-B. Should you choose to pursue this modified approach to your amendments, it would necessitate modifying the western limit of the lease to extend all the way to the Scott's Restaurant wall, where currently there is a gap for the area occupied by the storage area and breezeway.

(Response)-B. We understand that there has been encroachment that has occurred over the years and that Scott's and, we believe the Port, is willing to work on amendments necessary to appropriately account for the uses now undertaken of these areas. We have discussed these issues with Port staff in the past, but recognize that BCDC needed to move forward with Scott's application process before trying to address these issues. We would be happy to work with BCDC staff to assure that BCDC is provided any opportunity of input and advice as well as approval of lease amendments involving lease areas.

(BCDC)-C. Such a change would also necessitate extending the northern, eastern and southern limits of the lease area outward sufficiently to accommodate the planters when in public and private use/position.

(Response)-C. This would be fine, although regarding the planters, perhaps some other instrument permitting their use and placement might be appropriate, rather than a lease amendment. E.g. an annual License and Concession Agreement that the Port uses for purposes where less permanent improvements are necessary might be an idea.

(BCDC)-D. It is unclear whether or not the breezeway is currently leased to Scott's under a separate lease. Please confirm.

(Response)-D. The breezeway area is not in any lease as there were originally two non-contiguous legal descriptions – one for the restaurant and one for the Pavilion. The Port and Scott's would work together to resolve any discrepancy and as indicated above we are prepared to make modification to account for existing uses, if the Port and BCDC approves. However, the lease accommodates the roof overhangs of the original restaurant as noted in the dashed lines showing roof overhangs, which were in the original lease descriptions.

5. (BCDC). You have acknowledged that you have not provided the necessary environmental documentation and local government approval and that you should be receiving such in 30-60 days from July 9<sup>th</sup>. As already state in October 2013, both local approvals must include all elements of the project for which you seek BCDC approval, including the roofline modifications not yet part of your BCDC applications.

(Response)-5. We have conveyed to the City staff the concerns of BCDC and the City staff has been to the site several times to investigate the improvements. From the telephone conversation with Steve Hanson on Monday, August 11 you have indicated that you have raised these concerns with the City staff directly, again we look forward to making sure that this project meets the requirements of the City, the building codes for the use and BCDC permit process.

Sincerely,



Steven E. Hanson

Consultant for Scotts

415-314-0172

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)

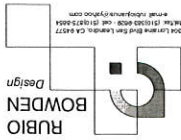
Attachment: (Public Pavilion - Material Amendment Request for Permanent Outdoor Structures at Scott's Jack London Seafood Restaurant revision -10 pages)



# PUBLIC PAVILION

Jack London Square  
Oakland, California

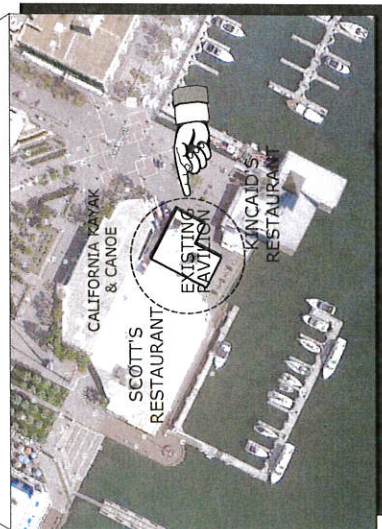
Material Amendment Request for Permanent  
Outdoor Structures at Scott's Jack London  
Seafood Restaurant



REGIONAL MAP



VICINITY MAP



## SCOPE OF WORK

The items included in this amendment application are divided in two(2) groups in accordance with the permits previously submitted as follows:

- A. BCDC Permit Application No 1985.019.021A
- B. BCDC Permit Application No 1985.019.011B

### MATERIAL AMENDMENT SCHEDULE

BCDC Permit Application No 1985.019.021A			BCDC Permit Application No 1985.019.011B		
ITEM	DESCRIPTION	STATUS	ITEM	DESCRIPTION	STATUS
A-I	255 SQ.FT. STORAGE ATTACHED TO SCOTT'S RESTAURANT EASTERN WALL. SEE ENLARGED PLAN 1/A.3.1	EXISTING / CONSTRUCTED / IN PLACE NON-AUTHORIZED	B-I	30 FEET LONG NON-RETRACTABLE PANELS WALL AT THE NORTHERN SIDE OF PAVILLION WITH DOUBLE SWING SERVICE DOOR	EXISTING / CONSTRUCTED / IN PLACE NON-AUTHORIZED
A-II	122 SQ.FT. BREEZEWAY AREA BETWEEN SCOTT'S RESTAURANT AND PAVILLION. SEE ENLARGED PLAN 1/A.3.1	PENDING CONSTRUCTION OF ITS NORTHERN WALL & DOOR	B-II	PERMANENT METAL DOOR FRAME ON THE EAST WALL OF THE PAVILLION WITH REMOVABLE METAL FRAME GLASS DOORS	EXISTING / CONSTRUCTED / IN PLACE GLASS DOORS ARE SHOWN NOT INSTALLED. NON-AUTHORIZED
A-III	16' 42" Wx 200" X 16H METAL PLANTER BOXES (SEE A.1.1, A.1.2, A.2 AND A.3.1)	NOT EXISTING (PROPOSED)	B-III	APPROX. 10 FEET LONG RETRACTABLE PANELS AT THE WESTERN SIDE OF PAVILLION (SOUTH OF THE STORAGE AREA) SEE 3/A.2	NON EXISTING / NON-AUTHORIZED
<b>KEY</b>  EXISTING - AUTHORIZED EXISTING - NOT AUTHORIZED PROPOSED - NOT AUTHORIZED			B-IV	METAL FRAME GLASS DOOR IN THE WESTERN PAVILLION WALL (SOUTH OF THE STORAGE AREA)	NOT EXISTING (PROPOSED)
			B-V	ROLL-UP DOOR, WOOD CURTAINS AND AWNING IN THE WESTERN PAVILLION WALL (STORAGE EASTERN SIDE)	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED
			B-VI	14'-10" LONG NON RETRACTABLE PANELS WALL AT THE WESTERN SIDE OF PAVILLION (NORTH OF STORAGE AREA) - SEE 3/A.2	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED
			B-VII	ILLUMINATED EXIT SIGN NEAR THE METAL DOOR FRAMES	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED
			B-VIII	RETRACTABLE PANELS ALL AROUND PAVILLION PERIMETER	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED

### DRAWING INDEX

DRAWING INDEX		PROJECT TEAM	
A.0.1	VICINITY MAP	A.2.1	PAVILLION ELEVATIONS
A.0.2	PUBLIC ACCESS PLAN	A.2.2	PAVILLION NORTH ELEVATION
A.1.1	PAVILLION FLOOR PLAN		PICTURES (SOUTH & EAST)
A.1.2	PRIVATE USE	A.3.1	VIEW CORRIDOR PLAN
A.1.2	PAVILLION FLOOR PLAN		ENLARGED PLAN
A.1.3	PUBLIC USE		ELEVATIONS
A.1.3	TABLE LAYOUT PLAN		PLANTER BOXES
A.1.4	ROOF PLAN	A.3.2	ELEVATION SECTION

VICINITY  
MAP  
PROJECT  
DATA  
SCOPE OF  
WORK

A.0.1

SCALE: AS NOTED

DATE: 11/26/2013	REVISED:
DATE: 02/27/2014	BCDC
DATE: 09/02/2014	BCDC

Presented by:  
Steven Hanson, Consultant,  
Scott's Seafood Restaurants  
Steve Fagalde, President,  
Scott's Seafood Restaurants  
Prepared by:  
Juan Rubio  
RUBIO BOWDEN DESIGN



- Public Access required by BCDC Permit No. 1985.019.021A
- Public Access required by BCDC Permit No. 1985.019.011B



# PAVILION JACK LONDON SQUARE

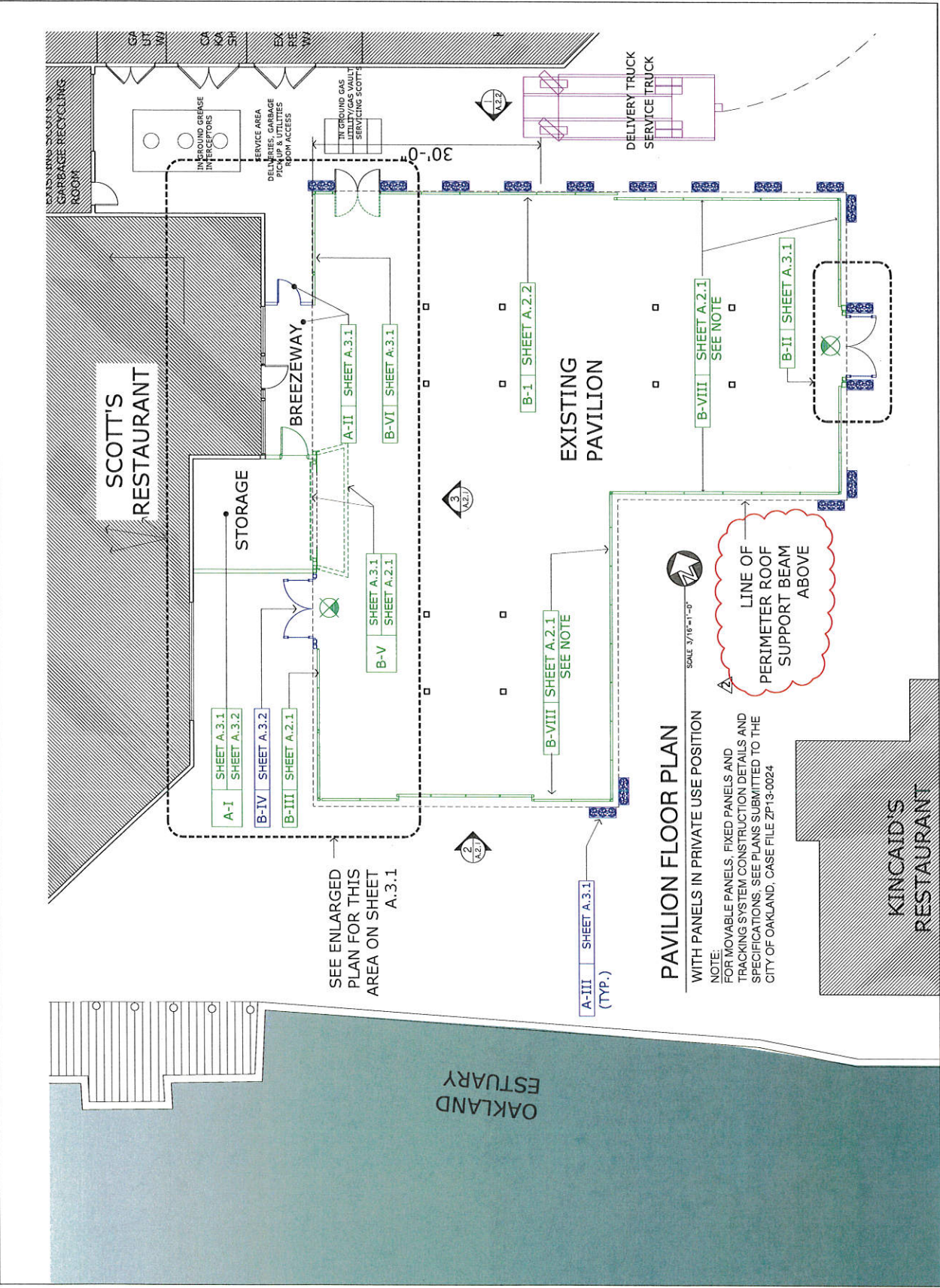
NO.	DATE	BY	REVISION
1	09/27/2014	BCDC	BCDC
2	09/07/2014	BCDC	BCDC

**PAVILION  
FLOOR PLAN**

WITH PANELS IN  
PRIVATE USE  
POSITION

SCALE: AS NOTED

**A.1.1**





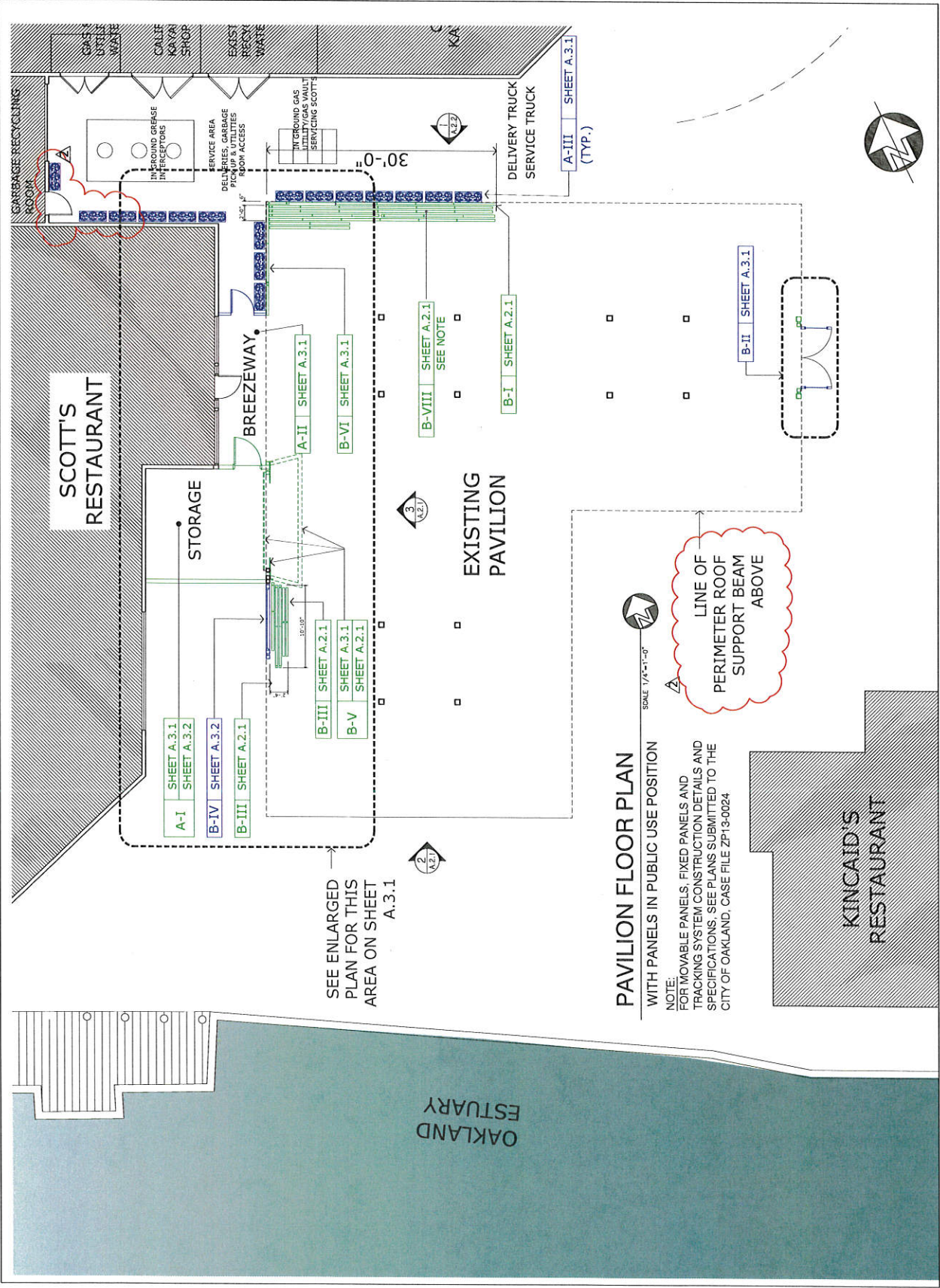
DATE	REVISION
02/27/2014	BCDC
09/01/2014	BCDC

**PAVILION FLOOR PLAN**

WITH PANELS IN  
PUBLIC USE  
POSITION

SCALE: AS NOTED

**A.1.2**



**PAVILION FLOOR PLAN**

WITH PANELS IN PUBLIC USE POSITION

NOTE:  
FOR MOVABLE PANELS, FIXED PANELS AND  
TRACKING SYSTEM CONSTRUCTION DETAILS AND  
SPECIFICATIONS, SEE PLANS SUBMITTED TO THE  
CITY OF OAKLAND, CASE FILE ZP13-0024



SCALE: 1/4"=1'-0"

LINE OF  
PERIMETER ROOF  
SUPPORT BEAM  
ABOVE

SEE ENLARGED  
PLAN FOR THIS  
AREA ON SHEET  
A.3.1

OAKLAND  
ESTUARY

KINCAID'S  
RESTAURANT

SCOTT'S  
RESTAURANT

STORAGE

BREEZEWAY

EXISTING  
PAVILION

DELIVERY TRUCK  
SERVICE TRUCK

A-III SHEET A.3.1  
(TYP.)

B-II SHEET A.3.1

A-II SHEET A.3.1

B-VI SHEET A.3.1

B-VIII SHEET A.2.1  
SEE NOTE

B-I SHEET A.2.1

SHEET A.3.1  
A-I

SHEET A.3.2  
A-II

SHEET A.3.2  
A-III

SHEET A.2.1  
B-IV

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B-V

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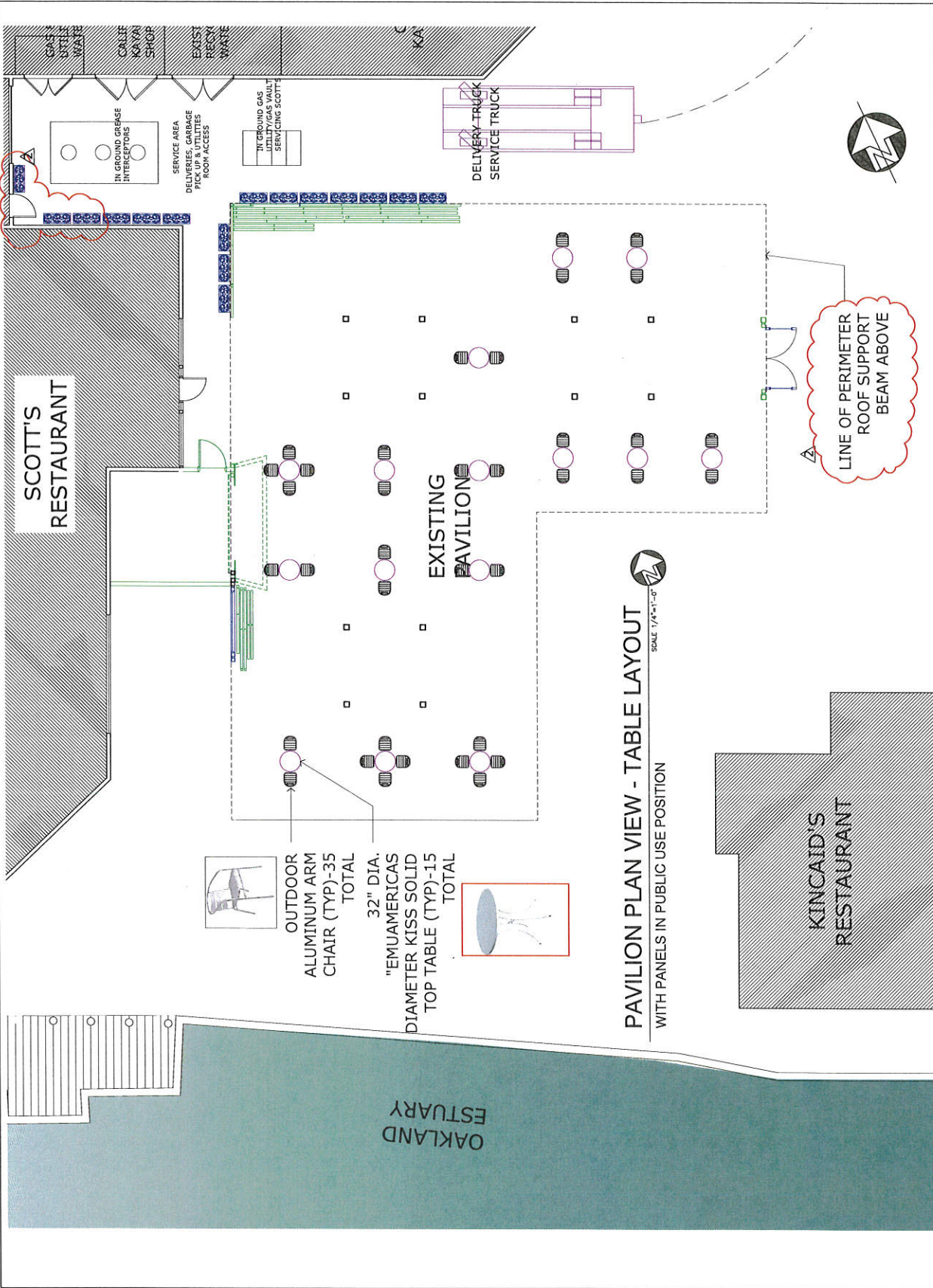
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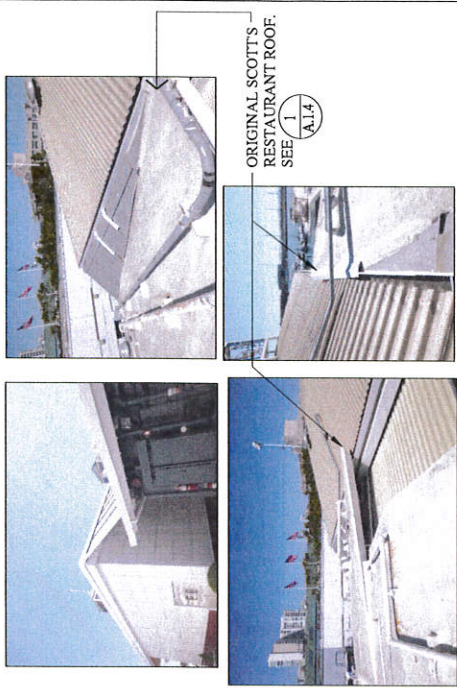
# PAVILION

## JACK LONDON SQUARE

JOB NO. 10129	DATE 02/07/2014
BY	REVISION
DATE	BY

SCOTT'S  
RESTAURANT &  
PAVILION  
PARTIAL ROOF  
PLAN

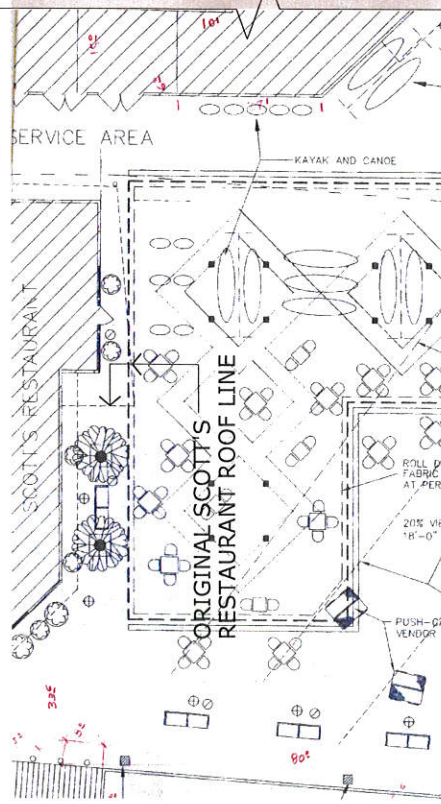
SHEET NUMBER  
SCALE AS NOTED  
**A.1.4**



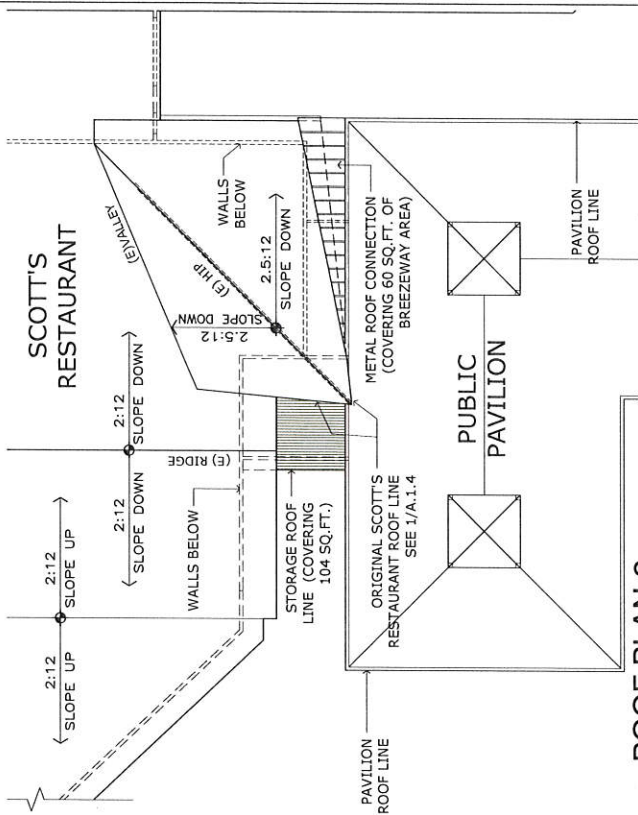
ORIGINAL SCOTT'S  
RESTAURANT ROOF.  
SEE 1/A.1.4

Stamp: *David Pro*

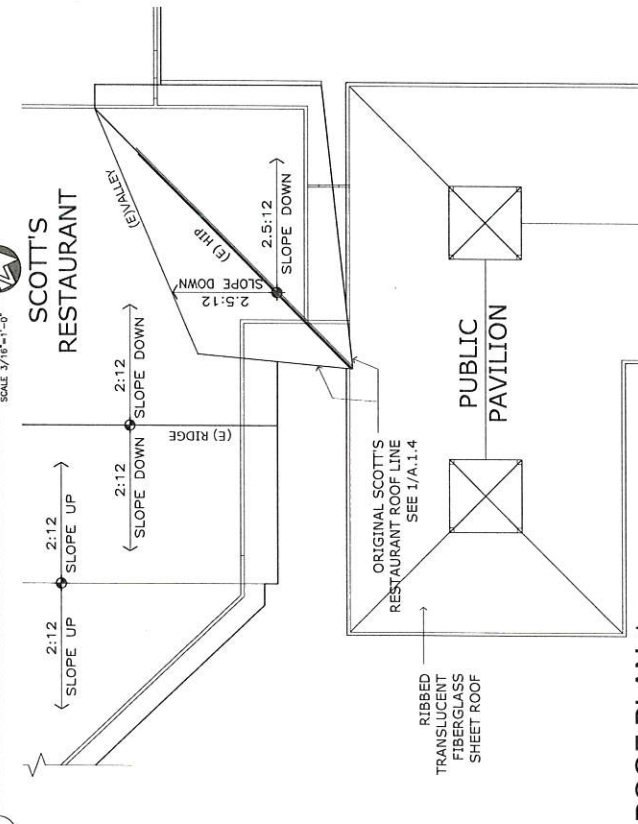
No. Revision By  
9427E 1/1/14  
DATE: 1/1/14  
JOB NO. 10129  
SHEET COMMENT: 1/1/14  
SHEET TITLE: SITE PLAN TOWER SECTION & DIMENSION PLAN  
SHEET NO. 1/1/14



1 APPROVED BCDC SITE PLAN  
SCALE 3/16"=1'-0"



ROOF PLAN-2  
CURRENT ROOF CONDITION  
SCALE 1/8"=1'-0"

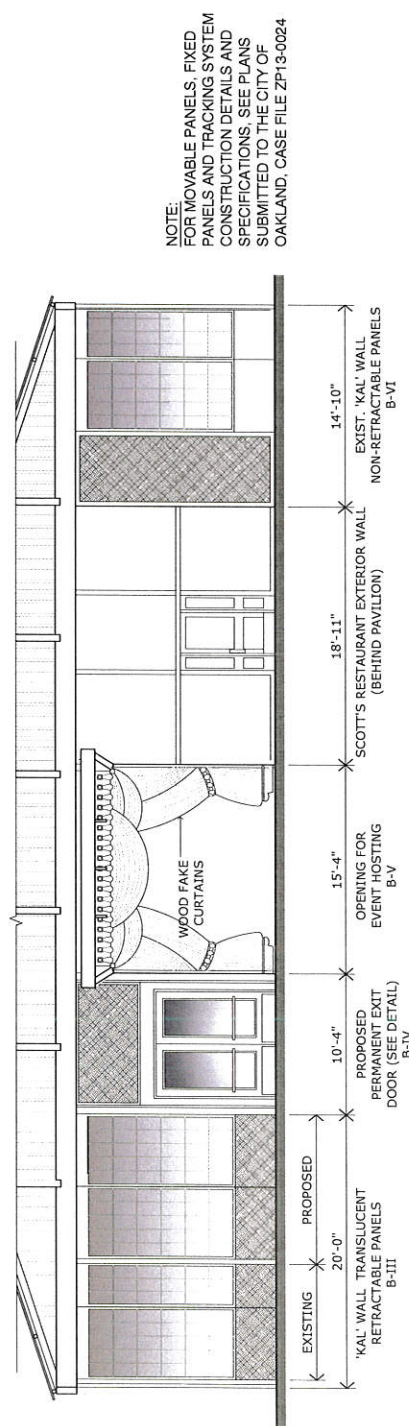
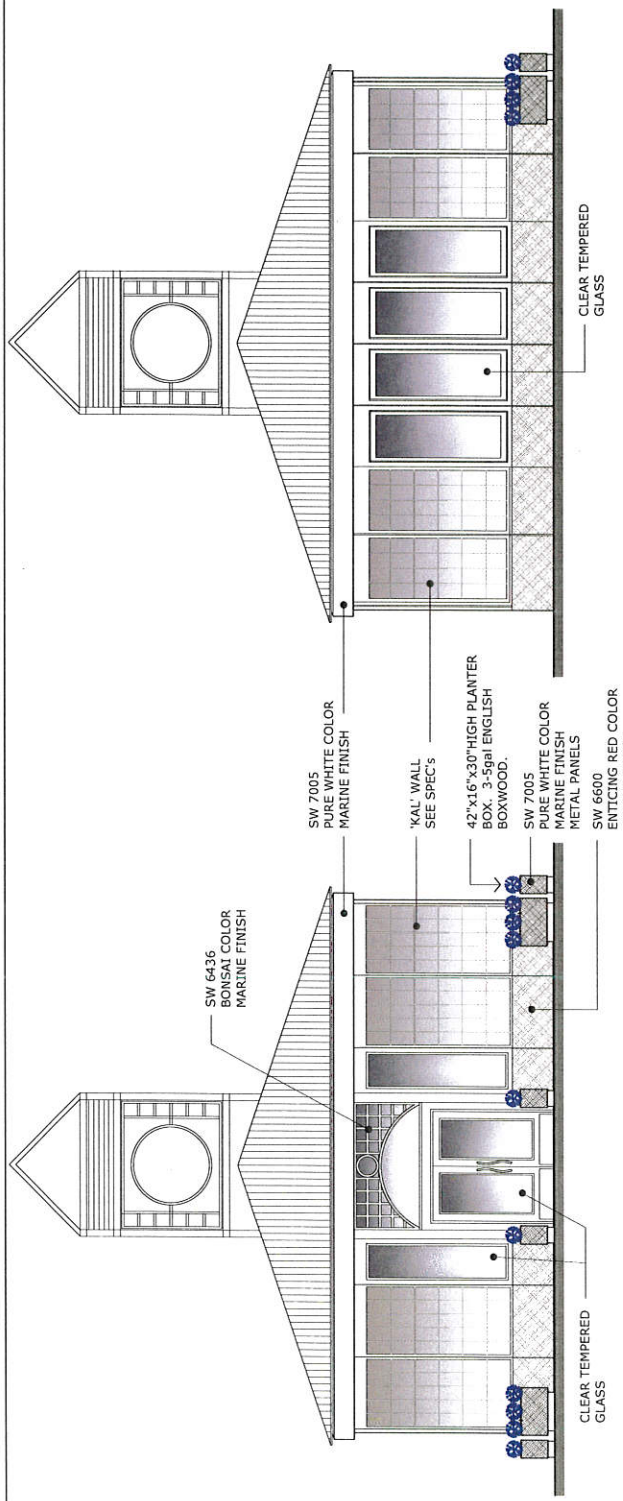


ROOF PLAN-1  
PRIOR TO CONSTRUCTION OF THE STORAGE AREA  
AND BREEZEWAY  
SCALE 1/8"=1'-0"



DATE	REVISION
11/26/2013	
01/23/2014	BCDC
	BC

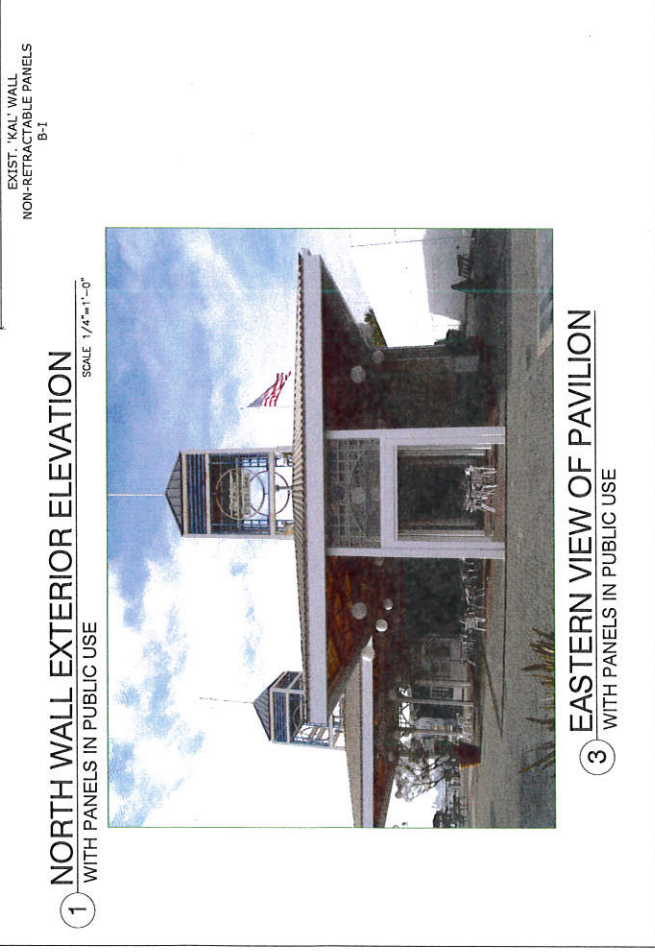
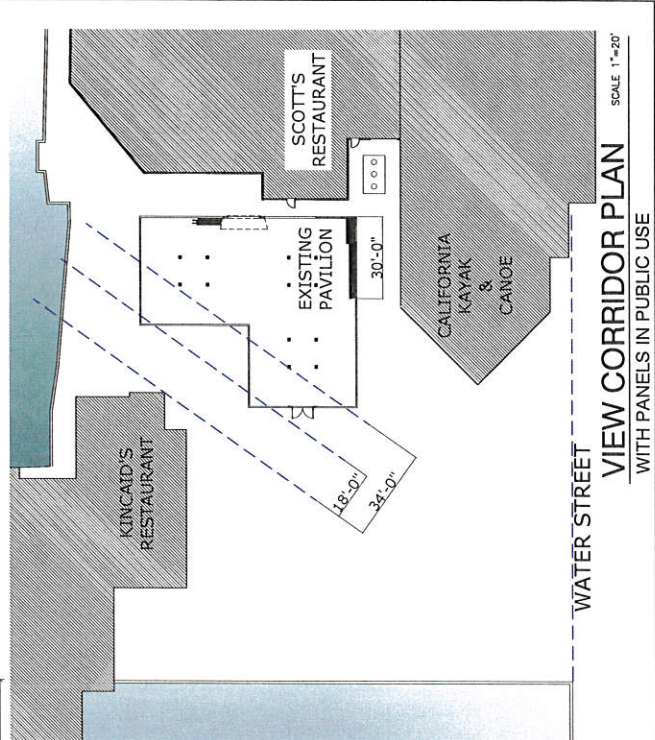
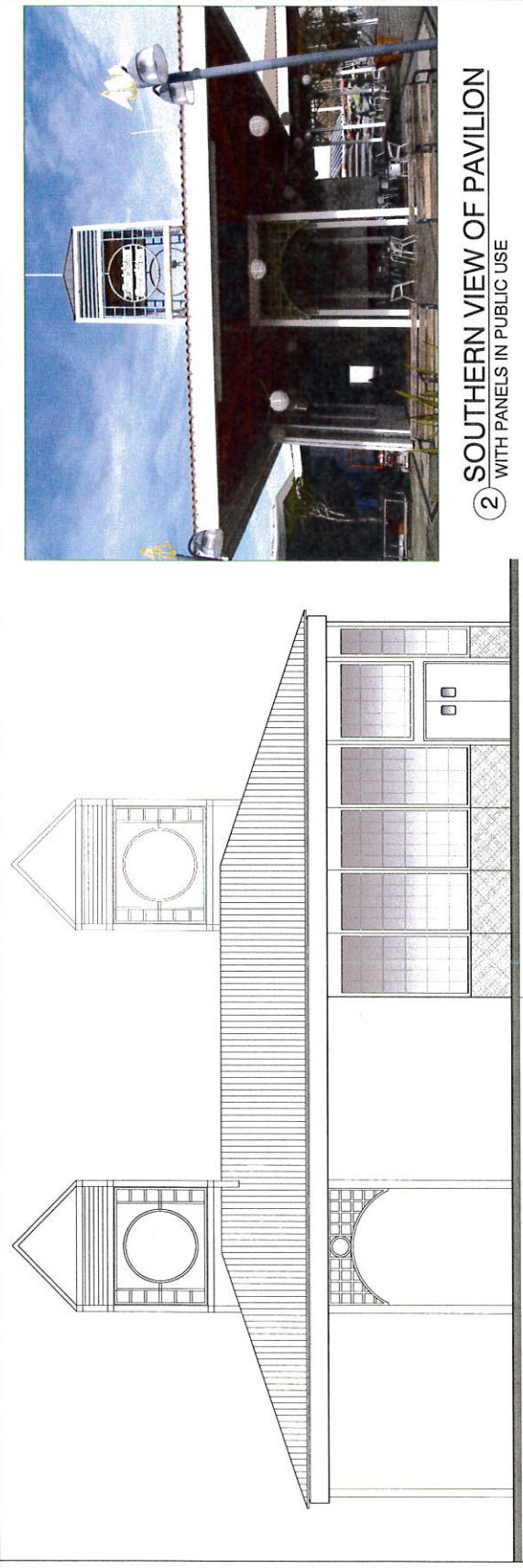
**PAVILION  
ELEVATIONS**



NOTE:  
FOR MOVABLE PANELS, FIXED  
PANELS AND TRACKING SYSTEM  
CONSTRUCTION DETAILS AND  
SPECIFICATIONS, SEE PLANS  
SUBMITTED TO THE CITY OF  
OAKLAND, CASE FILE ZH13-0024



# PAVILION JACK LONDON SQUARE

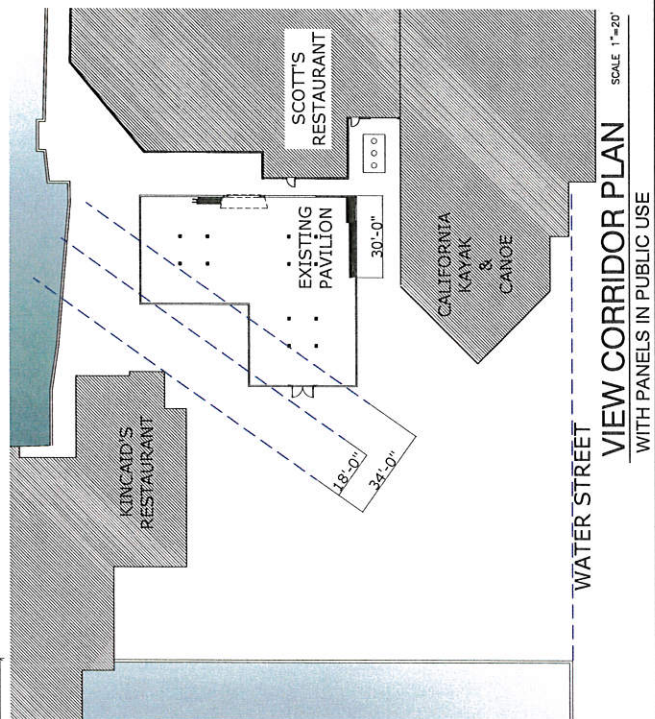


EXIST. KAL WALL  
 NON-RETRACTABLE PANELS  
 B-1

1  
 NORTH WALL EXTERIOR ELEVATION  
 WITH PANELS IN PUBLIC USE  
 SCALE 1/4"=1'-0"

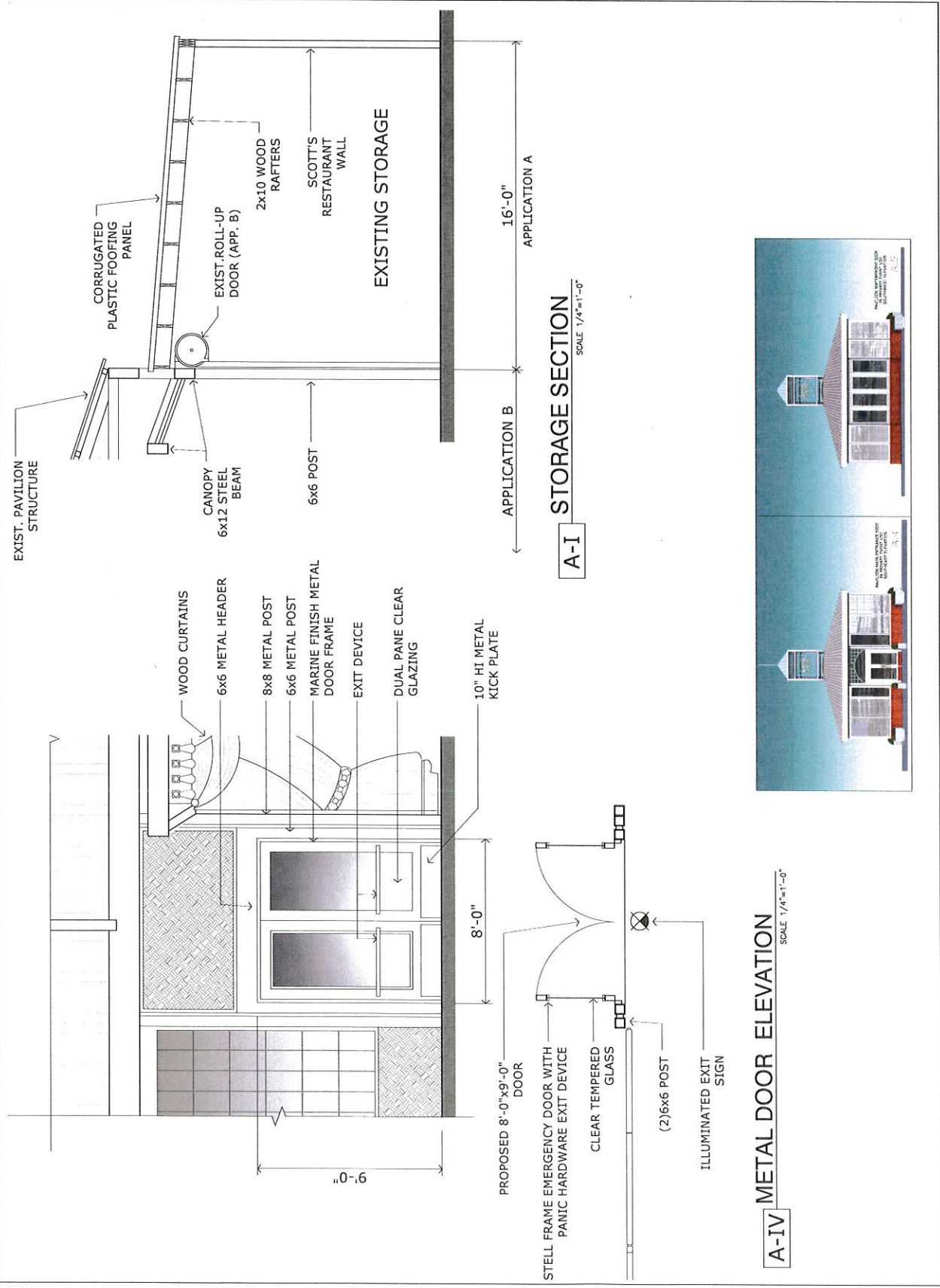
2  
 SOUTHERN VIEW OF PAVILION  
 WITH PANELS IN PUBLIC USE

3  
 EASTERN VIEW OF PAVILION  
 WITH PANELS IN PUBLIC USE



A-III







**Subject:** BCDC Permit Application Nos. 1985.019 A and B

**Date:** Friday, July 25, 2014 2:06:03 PM Pacific Daylight Time

**From:** Adrienne Klein

**To:** stevef@scottscorp.com, hansonsteven@gmail.com, rsinkoff@portoakland.com

**CC:** Adrienne Klein, John Bowers

Dear Steve Fagalde,

Thank you very much for your two letters to BCDC, each dated July 9, 2014 and received in our office on the same day.

1. I have reviewed your submittals. You have provided a very nearly complete project description, a nearly complete set of project plans, an accurate identification of BCDC's shoreline band jurisdiction on the plans, the entire processing fee as previously acknowledged and, finally, proof of public notice. Thank you.

2. Project description:

A. Please confirm that you are requesting authorization to retain the as-built improvement made to new roofline that joins the pavilion to the building over the breezeway north of the stage. Also, please provide the square-footage of that structure.

B. Your plans depict that you will locate all of the planters within BCDC's shoreline band jurisdiction, however, your letter indicates that fewer than the total number will be stored in the shoreline band. Please clarify whether or not all 16 planters are proposed within the shoreline band.

3. Project Plans:

A. Please revise Sheets A.1.1, A.1.2, A.1.3, and A.3.1 to remove the two black lines between the breezeway and the stage, which appear to depict a wall where no wall is proposed.

B. Regarding Sheet A.1.2, while we have not made a determination on whether we can find the planters consistent with BCDC's policies, we suggest that you revise the proposal to relocate at least three of the planters located on the north wall, which extend beyond the retractable wall panels when they are in the public use position. Storing planters in the currently proposed location defeats the purpose of shortening the walls from 40 to 30 feet. Alternate storage locations include south of the storage area or in a double layer along the north wall of Scott's Restaurant.

C. Please revise Sheet A.1.3 to include the planters.

D. Please create a new sheet depicting the former rooflines of Scott's Restaurant and the pavilion as they existed prior to construction of the storage area and breezeway, and depicting the current joined rooflines as they exist today.

E. Though not presently required to file your applications as complete, we will likely need one or two new permit exhibits, once the public access in each permit is determined, whether it be diminished, changed or new.

4. Lease Area. John Bowers has shared with me what I understand to be the current copy of the lease area, which generates the following comments and questions:

A. If the Port were to lease all of the areas that Scott's proposes to use as part of these two amendment requests, it appears that we could limit the amendment to Permit No. 1985.019A to a request to convert the public access area occupied by the storage area (and planters) from public to private use. We could then authorize the entire proposed project exclusively in Permit 1985.019B.

B. Should you choose to pursue this modified approach to your amendments, it would necessitate modifying the western limit of the lease to extend all the way to the Scott's Restaurant wall, where currently there is a gap for the area occupied by the storage area and breezeway.

C. Such a change would also necessitate extending the northern, eastern and southern limits of the lease area outward sufficiently to accommodate the planters when in public and private use/position.

D. It is unclear whether or not the breezeway is currently leased to Scott's under a separate lease. Please confirm.

5. You have acknowledged that you have not provided the necessary environmental documentation and local government approval and that you should be receiving such in 30-60 days from July 9th. As already stated in October 2013, both local approvals must include all elements of the project for which you seek BCDC approval, including the roofline modifications not yet part of your BCDC applications.

We look forward to receiving your response to this email.

Sincerely,

Adrienne

-----  
Adrienne Klein  
Chief of Enforcement  
SF BCDC  
455 Golden Gate Ave., Suite 10600  
San Francisco, CA 94102-7019  
Direct: (415) 352-3609  
Main: (415) 352-3600  
<http://www.bcdc.ca.gov>





July 9, 2014

Ms. Adrienne Klein  
Chief of Enforcement  
Bay Conservation and Development Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, CA 94102-7019

Dear Ms. Klein;

As we discussed, Scott's Restaurant is in need of responding to the two letters sent on October 29, 2013. With the guide of our council we believed that we addressed most of the issues raised in these letters in our applications. While you have moved those applications onto the Design Review Board of the Commission, we understand now that we will be addressing the full Commission in any future interactions with our project review. You have indicated, and we understand, that we have never responded properly to these letters and as such our application is not considered complete. I am hoping that this preface is an accurate reflection of our current understanding.

To update you, we have formally submitted our application for design review and planning approval to the City of Oakland and are in process of providing the City with a full background of our efforts to date including our correspondence with BCDC. We will keep you posted as to the progress there.

#### Update City of Oakland

In response to your letters, we understand that there are two BCDC permits involved in our efforts to make these improvements. The first permit 1985.019.021A is the permit that encompasses the areas outside of the approved Public Pavilion footprint and includes much of the western portions of Jack London Square. We will sometimes refer to that permit in shorthand as "A". Permit No. 1985.019.011B is the area that is occupied by the Public Pavilion footprint and we will sometimes refer to that permit as "B". (We have elected to include your comments in blue and our responses in black as we want to respond to your comments in context in an attempt to make it easier to follow. We have also indicated your comments as "BCDC" and ours as "RESPONSE" so that without color it still can be discerned). We are in hope that this one letter divided in two parts will address all the points in both your letters.

- A. (BCDC) Material Amendment Request for Permanent Outdoor Structures at Scott's Jack London Seafood Restaurant – (BCDC Permit Application No. 1985.019.021A and Enforcement Case No. ER2013.008
  1. **Total Project and Site Information.** As described in item 3, below, the location of the Commission's 100-foot shoreline band may be incorrectly depicted in your application. Correct depiction of the Commission's jurisdiction is imperative in accurately describing the proposed project. From reviewing the plans attached to your application, the proposed work within BCDC's jurisdiction would involve the construction, use and maintenance of a





255-square-foot storage area (15 x 16 feet) in a dedicated public access area (after-the-fact) and six planters (not 16) located within a dedicated public access area. In addition, your application includes a proposal for the construction, use and maintenance of a 122-square-foot breezeway located partially within the 100-foot shoreline band. As described below, more of the project may be within the Commission's jurisdiction than is shown on the plans. Please verify whether the proposed project has been described in full and modify it as needed. Please provide any missing details and, if necessary, additional project information as required in Box 2 of the application form.

1. **(RESPONSE)** We have asked the Port surveyor to provide updated and accurate information on the site location of the Pavilion and BCDC's jurisdiction line for this area in Jack London Square. These lines are depicted on the attached Exhibit entitled Jack London Square Public Access Nos. 13-78, 19-85(A) & 19-85(B) Final Configuration.

We confirm that we are applying for the construction, use and maintenance of a 255 square-foot storage area with the dimensions of 15 by 16 feet in an area that is currently dedicated as public access. This is, as noted, an after-the-fact submittal. We have indicated that for the proper service of the Pavilion, while both in private use as well as public use, the storage room facilitates the storage of the equipment necessary for the operation of the Pavilion as well as facilitates a rapid turnaround of the Pavilion operations from private to public use and vice versa. As well, we are confirming that we wanted to provide a 122 square-foot breezeway which is only closed via a swinging unlocked door (on the north wall) when the Pavilion is in private use. The breezeway permits access to the restrooms that service the Pavilion for the public – reduces noise from the outside service area when in private use as well as permits the clean and sanitary transport of food service and restaurant items from the Scott's kitchen located within the restaurant to the patrons of the Pavilion.

We will revise the application form as necessary to make sure that these items and their uses and necessities are spelled out.

1. (BCDC) Continued: As you know, the existing public pavilion is authorized and required in the "B" permit and the surrounding public access area is authorized and required in the "A" permit. Because some of the proposed improvements span the "lines" of the BCDC permits, authorization of these structures would be split between permits. Accordingly, it appears that you will need to apply for authorization to retain and/or construct the portions of the stage and breezeway located in the "A" permit area and, likewise, you will need to apply for authorization to retain and/or construct the portion of the storage area and breezeway located in the "B" permit area. To accomplish this, please revise the pending project description to include the northern and southern walls of the storage area and the storage area itself in this permit application (A), whereas the eastern wall curtain and awning should be part of the "B" permit application. Please also revise the pending project description to include the southern wall of the breezeway, which is not yet constructed, and the breezeway itself. The plans do not show that the breezeway is enclosed at its northern end. Please verify that it will remain open or modify the project description accordingly. In all cases, identify whether each structure for which you are requesting permission to build and use is constructed and in place or not.





1. (RESPONSE) Thank you for this observation. We will try and follow this advice understanding fully that there are two permits that this project is affecting and we will try to make the distinction as clearly as possible. We believe that the storage room and the breezeway as well as the planters should be authorized under the "A" permit as they are outside the Pavilion "footprint" authorized under the "B" permit. The west wall of the Public Pavilion, which includes the rollup door and stage fenestrations located on the wall should be covered under the "B" permit as they are within the Pavilion "footprint". The stage has no permanent platform so the stage area is just a wall. There is an awning sub structure over the "stage area" but it resides under the Pavilion roof and above any view corridor.
2. (BCDC) **Project Plans.** Please revise the plans to distinguish existing authorized, existing unauthorized and proposed structures from each other and distinguish the "A" and "B" permit areas from each other. One full size set of project plans and one reduced size set of project plans (8-1/2" x 11") must be submitted. Additional information may need to be included on the plans depending upon the scope of the proposed project. Once the project description and plan details have been finalized, we will again require multiple sets.
2. (RESPONSE) We have tried to make these corrections in our most recent set of plans that we will provide them to you as part of our response to this letter.
3. (BCDC) **BCDC Jurisdiction.** As mentioned in item 1 above, it appears that you may have incorrectly identified the location of the 100-foot-shoreline band on the drawings you have submitted with your application. Its location is important, as it will determine which portions of the pending request fall within our regulatory jurisdiction. Enclosed are copies of two exhibits from Permit No. 1985.019A that, unfortunately, depict the shoreline band in two different locations. Although the exhibits are inconsistent with each other, they both depict the shoreline band inland of the location depicted on your application plans. We suggest that you work with us to clarify the precise location of the Commission's jurisdiction and then modify the current plans to show the correct location of the shoreline band.

The McAteer-Petris Act provides that the Commission's shoreline band jurisdiction is the 100-foot-wide strip of land located inland and parallel to the mean high tide line. At this vicinity, the mean high water line is 5.67-feet NAVD 1988 datum (using the Oakland Inner Harbor Tidal Station). The shoreline is measured from the location where the Bay water meets the land, which in some areas of the project site will be under the pile-supported structure at the foot of Franklin Street.

3. (RESPONSE) We have worked with the Port's land surveyor, Dave Mertha to provide an accurate site plan/Plat for the BCDC Permit for 19-85 (A) & 19-85(B). This exhibit shows that the Pavilion is within the BCDC shoreline band and we have revised our submittal drawing to show this line. We will work with BCDC to make sure the exhibit and shoreline bank jurisdiction is acceptable as shown.
4. (BCDC) **Processing Fee.** Thank you for providing an application-processing fee of \$1,400 for a project with a total project cost (TPC) (definition attached) of \$80,000. As appropriate,





please revise the total project cost of \$80,000 to reflect the modifications outlined above. Also, for projects resulting from an enforcement action, the regulations state that the application fee will be double the normal fee. Therefore, to enable the continued processing of the application, please submit the requisite difference. The application fee is double \$1,400 if the TPC for this amendment is between \$50,000 and \$100,000, double \$1,800 if it is between \$101,000 and \$200,000, or double \$2,200 if it is between \$201,000 and \$300,000.

4. (RESPONSE) Thank you, we have previously included \$1,400 for this Application "A". We are open to discussion on the appropriateness of our fees.
5. **(BCDC) Environmental Documentation.** Thank you for informing us that, as part of its review of this project, the City of Oakland will act as the lead agency and, therefore, prepare the necessary environmental documentation, as required under the California Environmental Quality Act, in the form of a categorical or statutory exemption, negative declaration, or other certified environmental impact document. When available, please submit the City's determination.
5. (RESPONSE) We have submitted our application documents to the City of Oakland's Planning Department together with our application fees. We expect that they will take action within the next 30 to 60 days and we will provide you with whatever findings and comments through the design review and CEQA process.
6. **(BCDC) Interested Parties.** The application neglects to include Murasaki Jack London Square as an interested party. We intend to include it as you have done so in the amendment request for Permit No. 1985.019B.
6. (RESPONSE) We hope we have provided a comprehensive list of interested parties, we have included organizations that have as their membership all the retail tenants in Jack London Square as well as the larger neighborhood organization called the Jack London District Association which is forming a Business Improvement District (BID).
7. **(BCDC) Public Notice.** Please find enclosed the completed "Notice of Application" which the Commission's regulations require to be posted at or near the project site in a prominent location before a permit application can be filed. Please post the Notice so that it will be visible to the members of the public, complete the form that certifies that you have posted the Notice, and return the form to the Commission's office.
7. (RESPONSE) We have posted these notices in the past and will continue to make sure these notices remain posted if they are somehow removed. We have now laminated the notice and reposted it!

#### Other Issues

1. **(BCDC) Public Access.** As you are aware, the Commission's law and policies require that proposed development provide the maximum feasible public access consistent with the project. The staff would not be able to recommend approval to the Commission for a proposal that does not provide maximum feasible public access consistent with the project.





The proposed project involves constructing a permanent storage area and planters in a dedicated public access area. We are concerned that these proposed permanent structures may adversely impact the unencumbered nature of the required public access areas. Therefore, please provide more information about the proposed diminution of public space. Please describe why the permanent storage area, which supports temporary private events, is not proposed outside of this dedicated public access area, such as within the restaurant, a nearby building, or the parking garage. Additionally, please describe why vehicular access to the area cannot be located away from the public pavilion to avoid the need for the permanent, steel planters that are intended to protect temporary, retractable wall panels that would be in place only 20% of the time. Finally, your proposal, which we have determined adversely impacts existing required public access, does not include any new access improvements to offset the adverse impacts of the proposed project. We believe the best approach would be to avoid or minimize the potential public access impacts by modifying the proposal to remove all or some of the proposed structures. Alternately, you may supplement the proposal to include a public access proposal to offset the adverse impacts of the project. If public access is proposed as a part of your project, please provide a description of the proposed public access area and improvements and include a public access and/ or open space exhibit that clearly indicates the area to be dedicated as public access and/ or open space. The exhibit must be legible when the exhibit is reduced to 8-1/2" x 11" and include a graphic scale. Public access improvements should be sited and designed, managed and maintained in a manner that is consistent with Commission's relevant San Francisco Bay Plan policies. If your proposal does *not* include new public access, please provide a statement as to why access and associated improvements are not feasible at the project site or why in-lieu public access near the project site is not feasible.

1. (RESPONSE) We understand that the The McAteer-Petris Act requires that maximum feasible public access be provided. The Public Pavilion has been fully operational since 1986 and has served the area well by providing fully open covered public access to the waterfront more than 80 percent of the time since that time. In addition, the Public Pavilion has served to provide public event space to any member of the public wishing to use the facility to host events, everything from weddings, to dinners and other celebrations. Scott's has provided the use of the facility and its resources, as well, to hundreds of non-profit organizations over the years that support community events. In addition, Scott's employs at least one-dozen employees that are dedicated to the operation of the facility on a full time equivalent basis.

The facility is a unique venue on the waterfront in that there are no other covered facilities that are open to the public with unobstructed views on the waterfront.

The Public Pavilion is a facility that must be managed and in the effort to provide maximum feasible public access the Pavilion required some support infrastructure that was not anticipated at the time the original 1985 permits were sought. That is, the Pavilion, under its permit, is to provide public furnishings to provide the public with access to the facility. There was no provision to store or manage the public furnishings when the Pavilion transfers from private use to public use. In addition, part of the Pavilion's defined operation permits its use for private events and as such, the Pavilion can handle approximately 300 patrons at a time which requires necessary equipment for this purpose. There was no





adequate capacity to store the tables, chairs, lighting, P.A. and service equipment necessary to make the Pavilion functional for this use. The proximity to the storage room provides for a faster turn-around time and thus helps provide (with the new wall system) maximum feasible public access. The storage room also includes directly connected mechanical and electrical equipment to support the pavilions electrical, lighting and HVAC equipment when the Pavilion is in Private use. These services must be in a protected area immediately adjacent to the Pavilion. There are no areas that are close to the Pavilion that can accommodate the support facilities and are not within the designated public access area.

The proposed planters will only be in use around the circumference of the Pavilion when the Pavilion is in private use, otherwise the proposed planters will be movable and located north of the wall system in the service area between the Pavilion and the retail building. The intent of the planters are to provide some green colorful relief to the structures and plaza and as well protect the wall system when in use for private events. It should be noted that planters appear throughout the Jack London Square area including the areas occupied by the dedicated public access and they provide a visual amenity to the large expanse of public paving.

Prior to 1985, the Franklin Street plaza/pier was a parking lot that served the patrons of the old Grotto Restaurant as well as Sea Wolf/Scott's. This former parking lot also served all the delivery and service functions necessary for major restaurants (each of those restaurants are in excess of 12,000 square feet). When the first phase of Jack London Square was completed, a permit was issued to provide for the public access plaza with its current design. The uses, however for the adjoining buildings have not changed and it was imperative that delivery and service access was maintained in the above referenced permit. Throughout the history of the current permit, delivery and service trucks have used the area, but with the negative side effect of equipment and lighting being damaged on a routine basis by these trucks. Barricades have had to be erected to protect these items that service Jack London Square. The planters are intended to serve dual purposes which include protecting the Pavilion wall improvements while in private use.

We have not at this point been able to recommend or to find suitable alternative new public access within the Jack London Square area that could supplant the uses we are requesting. If there is any possibility that would be feasible, we would entertain working with your staff to address this issue. The public shore and public access in this area appear to be fully dedicated at this time. Our contention, however, is that one of the major benefits of the new wall system is that more public access can be achieved at the current location due primarily to the time saving systems that have been installed as contrasted with the old tent wall systems.

We hope that we have been able to address the issues you raise in your letter and will be amending permit applications as necessary to move this project forward as necessary.

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The following is our response to your second letter dated October 2013 for Application No. 1985.019.011B or the "B" permit.

B. (BCDC) Material Amendment Request for Permanent Outdoor Structures at Scott's Jack London Seafood Restaurant ([BCDC Permit Application No. 1985.019.011B](#) and Enforcement Case No. ER2013.008)

1. **(BCDC) Total Project and Site Information.** From reviewing your application, it appears that the proposed project would involve the construction, use and maintenance of a permanent metal doorframe (after-the-fact) and glass-paneled doors on the east wall of the pavilion located in the Commission's 100-foot shoreline band. The application states that the doors are permanent and moveable. We understand this to mean that the permanent doors are "operable" but not "removable." However, please clarify whether or not the doors will be moved to another location when the pavilion is in public use.

1. (RESPONSE) Since submittal of the application, referred to in the October 29, 2013 letter, we have agreed that the glass door system (with panic hardware) on the east wall will be removable/detachable - from the permanent ground-to-roof/soffit metal door framework - that is shown in the plans (after-the-fact installation). The permanent metal doorframe is intended to stay, as it will provide the ridged structure necessary to support the removable glass door for years to come.

(BCDC) The application does not request authorization for the following items shown on the plans and must be revised either to omit them from the plans or to include them as part of the project description, pending confirmation of the location of the shoreline band as described in item 3 below:

a. (BCDC) The 40-foot-long section of the exterior non-retractable wall on the north side of the pavilion and door, which is already constructed. As you know, we have directed you on numerous occasions to shorten this wall from 40 to 30-feet so that it does not impact views to the Bay. We have also stated that at 30-feet in length, we may approve it through plan review. However, as you now want to retain the as-built length of 40-feet (please clarify) and install a door in this permanent wall (also as built), it may not be approved through plan review and must instead be considered by the Commission as part of this material amendment. The existing permit authorizes the enclosure of the pavilion with removable canvas panels. Two years ago, when you proposed replacing them with retractable wall panels, we determined the proposal was sufficiently equivalent in design and nature to the existing authorization to enable an in kind replacement through plan review. However, this element of your self-described "design-build" pavilion enclosure exceeds the intent of the existing authorization;

a. (RESPONSE) We understand the concerns expressed by BCDC on this issue and have agreed to your comments and will submit a revised application depicting the north wall elevation extending no further than 30 feet when in public use. This location is where many of the movable walls are stored and therefore, they will have to be rearranged on additional parallel tracks so that they do not extend beyond 30 feet while stacked in place for public use. This requires some re-engineering but is something we can do.





Along the north wall there are some panels that are not movable and become the storage location for the moveable walls. In other words, this 30 foot location on the north wall would never be open or free of walls. The door that you refer to on the west end of the North wall is a door that is only functional when the Pavilion is in private use and it simply permits better servicing of the Pavilion when in use. A removable tent panel had been incorporated before these proposed improvements. When in Public use these double-swing doors don't operate because the moveable walls are stacked in front of it.

- b. (BCDC) The two, five-foot-long retractable wall panels creating a 40-foot-long wall in its most retractable position interior to the wall described above and already constructed, which we have also directed you on numerous occasions to remove/reconfigure so that they do not impact views to the Bay. If modified to be no longer than 30-feet in their most retractable position, they can be approved by plan review as previously advised. If not, for the reasons described above, they must be considered by the Commission as part of this material amendment;
- b. (RESPONSE) If I am understanding this correctly, we have answered this concern in item a. above. We intend to reduce the north wall from its present 40 feet of permanent wall to 30 feet and then reposition the track system so the stackable/moveable walls will stack within the dimensions of the 30 foot permanent wall on the north end of the Public Pavilion. Two of the permanent wall sections will become movable and stackable within the new shorter 30 foot length of the permanent wall.
- c. (BCDC) All of the structures along the western pavilion wall: the exterior pavilion wall south of the storage area, already constructed, and the door that appeared in it for the first time in the drawings reviewed by Ms. Miramontes in her recent letter to you, dated October 18, 2013, not yet constructed; the roll-up door, wood "curtains," and awning that form the east wall of the storage area, already constructed and being used; and the wall(s) north of the storage area, one of which forms the east wall of the proposed breezeway, already constructed; and
- c. (RESPONSE) In our most recent application and plan set we had, included the items described above. These items were discussed with the Design Review Board at our meeting on February 10<sup>th</sup>, 2014. These are within the BCDC jurisdictional shoreline band and many of these items have been installed and have been in use for some time. These items are not dependent and are in fact independent of the new moveable wall system. We are however, requesting that these items be reviewed and be considered for formal approval. We believe that these items are not incidental but work towards making the Pavilion in both private and public use a better and more usable facility.

The issue with the new door to be included in the west wall south of the stage area (where some of the movable walls are proposed to be stacked) provides for a replacement access/exit way that was formerly provided for with an opening in the tent wall when the tent wall system was installed. More than one exit is required by fire



codes in any enclosed facility and this exit is a necessary component of the private use of the Public Pavilion.

- d. (BCDC) The illuminated exit sign near the metal doorframe and entry doors, already installed.

Please verify whether the proposed project has been described in full; if not, please provide any missing details and, if necessary, additional project information as required in Box 2 of the application form. In all cases, identify whether each structure for which you are requesting permission to build and use is constructed and in place or not.

- d. (RESPONSE) In our recently revised plan set we have provided to the City we have color coded all the existing improvements that have been installed to date, and designate whether they have been approved or not approved. As well all the improvements that we propose that have not yet been installed are indicated by color key. We will provide these to you along with this letter. We will be providing an updated application with changes responding to your comments.

Emergency exit signs (or electrically operated "EXIT" signs), where required of our existing tent wall system and have been in use for years. They are required by City and State fire code. These exits signs were not included in our original permit applications or described in the original BCDC permits noted above, as they may have been in use under the old tent wall system. Their detailing is required under the construction permits, we have included them in our more recent applications and plan sets.

- 2. **(BCDC) Project Plans.** Please revise the plans to either shorten the existing 40-foot-long exterior non-retractable north wall to 30-feet or to make it clear that you are requesting permission to retain them in the as-built configuration. Please make one of the same two revisions to the plans for the interior panels that are 40-feetlong in the open position. Finally, please revise the plans to include all of the walls and structures on the west pavilion wall. In all cases, the plans must distinguish existing authorized, existing unauthorized and proposed structures from each other and distinguish the "A" and "B" permit areas from each other. One full size set of project plans and one reduced size set of project plans (8-1/2" x 11") must be submitted. Additional information may need to be included on the plans depending upon the scope of the proposed project. Once the project description and plan details have been finalized, we will again require multiple sets.
- 2. (RESPONSE) We have agreed in our response to 1.a. above that we will reduce the extension of the permanent wall on the north elevation to 30 feet. As indicated this will require an additional set of tracks to accommodate two fixed panels to be movable and the relocation of some of the movable panels to another track.

We have reworked our plan submittals for your review to distinguish among existing approved, and installed but not approved, and not yet installed but proposed/not approved. In addition, these are distinguished as under permit "A" and "B". We look forward to further comments on our submittals.





3. **(BCDC) BCDC Jurisdiction.** It appears that you may have incorrectly identified the location of the 100-foot-shoreline band on the drawings you have submitted with your application. Its location is important, as it will determine which portions of the pending request fall within our regulatory jurisdiction. Enclosed are copies of two exhibits from Permit No. 1985.019A that, unfortunately, depict the shoreline band in two different locations. Although the exhibits are inconsistent with each other, they both depict the shoreline band inland of the location depicted on your application plans. We suggest that you work with us to clarify the precise location of the Commission's jurisdiction and then modify the current plans to show the correct location of the shoreline band. The McAteer-Petris Act provides that the Commission's shoreline band jurisdiction is the 100-foot-wide strip of land located inland and parallel to the mean high tide line. At this vicinity, the mean high water line is 5.67 feet NA VD 1988 datum (using the Oakland Inner Harbor Tidal Station). The shoreline is measured from the location where the Bay water meets the land, which in some areas of the project site will be under the pile-supported structure at the foot of Franklin Street.
3. **(RESPONSE)** We have asked the Port to resurvey the site and have provided an exhibit as to the jurisdiction lines. It appears that the entire Pavilion is within BCDC's 100 foot shoreline jurisdiction line. As of now, continuing conversations between the Port legal staff and your legal staff have been ongoing regarding the proper recordation of the legal instrument for the recordation of the Permanent Public Access (PPA). We are willing to intercede to help this get resolved. We have included the latest and we believe accurate representation of the shoreline band in our drawings (Jack London Square Public Access – BCDC permit Nos. 13-78, 19-85(A) & 19-85(B) Final Configuration).
5. **(BCDC) Processing Fee.** Thank you for providing an application-processing fee of \$1,400 for a project with a total project cost (TPC) (definition attached) of \$50,000. As appropriate, please revise the total project cost of \$50,000 to reflect the modifications outlined above. Also, for projects resulting from an enforcement action, the regulations state that the application fee will be double the normal fee. Therefore, to enable the continued processing of the application, please submit the requisite difference. The application fee is double \$1,400 if the TPC for this amendment is between \$50,000 and \$100,000, double \$1,800 if it is between \$101,000 and \$200,000, or double \$2,200 if it is between \$201,000 and \$300,000.
5. **(RESPONSE)** We provided two checks, one for each of our applications at \$1,400 per application when we submitted our initial applications. We are open to discussion on the appropriateness of our fees.
6. **(BCDC) Environmental Documentation.** Thank you for informing us that, as part of its review of this project, the City of Oakland will act as the lead agency and, therefore, prepare the necessary environmental documentation, as required under the California Environmental Quality Act (CEQA), in the form of a categorical or statutory exemption, negative declaration, or other certified environmental impact document. When available, please submit the City's determination.
6. **(RESPONSE)** As we have mentioned in our earlier response to this item above, under Application "A" we have submitted our application documents to the City of Oakland's





Planning Department together with our application fees. We expect that they will take action within the next 30 to 60 days and we will provide you with whatever findings and comments that they make through the design review and CEQA process. The City does not have the same issue with dual Applications/Permits and as such only one application will be submitted for improvements under BCDC's Application "A" & "B".

7. **(BCDC) Local Government Approval.** Thank you for informing us that local discretionary approval is required and being sought from the City of Oakland. Please submit the name of the planner with whom you are working and, when available, all the relevant documentation that clearly indicates that you have received all the local government discretionary approvals required for the project.
7. **(RESPONSE)** The City Planner that is working on this project's name is Jose M. Herrera-Preza. His email is [Jherrera@oaklandnet.com](mailto:Jherrera@oaklandnet.com) and he can be reached at (510) 238-3808. When the process completes, we will provide you with all relevant documents.
8. **(BCDC) Public Notice.** Please find enclosed the completed "Notice of Application" which the Commission's regulations require to be posted at or near the project site in a prominent location before a permit application can be filed. Please post the Notice so that it will be visible to the members of the public, complete the form that certifies that you have posted the Notice, and return the form to the Commission's office. Until the above-mentioned information is submitted and reviewed for adequacy, your application will be held as incomplete.
8. **(RESPONSE)** Please see our response to the same issue relative to Permit "A" above. We have posted these notices in the past and will continue to make sure these notices remain posted for the duration of this process, if they are somehow removed.

(BCDC) Until the above-mentioned information is submitted and reviewed for adequacy, your application will be held as incomplete.

#### **Other Issues (BCDC)**

In addition to the issues cited above, the following matters should be considered in submitting additional materials to us as part of the application process:

1. **(BCDC) Public Access.** As you are aware, the Commission's law and policies require that proposed development provide the maximum feasible public access consistent with the project. The staff would not be able to recommend approval to the Commission for a proposal that does not provide maximum feasible public access consistent with the project.

The proposed project involves constructing a metal entry doorframe and doors on the east wall of the pavilion and permanent walls on the west and north sides of the pavilion, portions of which would be located in a dedicated public access area. We are concerned that these



proposed permanent structures may adversely impact the unencumbered nature of the required public access areas. Therefore, please provide more information about the proposed diminution of public space. Please describe why the proposed permanent 40-foot-long wall and panel's interior to it cannot be shorter. Please also describe why the proposed permanent entry doorframe and doors cannot be as temporary like the private events, which are authorized to occur only 20% of the time. Finally, your proposal, which we have determined adversely impacts existing required public access, does not include any new access improvements to offset the adverse impacts of the proposed project. We believe the best approach would be to avoid or minimize the potential public access impacts by modifying the proposal to remove all or some of the proposed structures. Alternately, you may supplement the proposal to include a public access proposal to offset the adverse impacts of the project.

(RESPONSE) As we have indicated in our response above, we are taking steps to reduce the 40-foot long wall on the east elevation to 30-feet by removing two five-foot long permanent wall panels and placing them on additional tracks that will make them movable. We will also be placing some of the movable panels currently stored within the 40-foot portion of the wall onto an additional track so that all the panels should be stored in the 30-foot area of the west wall. As we have mentioned, on the south wall where the permanent door is proposed to be located and the non-permitted door frame is located, we plan to make the glass panic doors removable, but we must keep the framework for the door in its place as it provides the necessary structure in which to mount the removable door itself. The system is designed to last the length of the lease with the Port of Oakland and as such the door structure and other structures must withstand the demands of up to 20,000 users per year using the facility during private events, year after year. The door systems must meet fire codes that require structurally significant systems if an emergency should occur requiring evacuation.

The west walls (those walls adjacent to the eastern most walls of the Scott's restaurant), have been utilized for some time as an enclosure and stage area. The roll-up door behind the stage area is designed to enclose the storage/utility room and provide for rapid deployment of equipment when the Pavilion is in transition. This rapid transition permits the Pavilion to be transitioned much faster than it could be if the storage areas were not located adjacent to the building. We would argue that this ability to rapidly transition the facility from private to public use and vice versa does in fact enhance the public access.

We believe the other walls on the west of the Pavilion (not associated with the storage area and stage) have little adverse effect on the view corridor and simply need to be located somewhere. If they were movable, they would have to be shifted somewhere else and the capacity to absorb other movable walls in the system is simply not available. On the south portion of the west wall (immediately adjacent to the stage) there will be more moveable walls stacked there (as single panels) when in public use. Behind those stacked walls is one more permanent wall that will contain another exit door (again required by fire codes). This door will be used when the building is occupied and the walls are in private mode and is not usable at any other time as it will be blocked by walls stacked on the inside.

(BCDC) If public access is proposed as a part of your project, please provide a description of the proposed public access area and improvements and include a public access and/ or open space exhibit that clearly indicates the area to be dedicated as public access and/ or open space. The





exhibit must be legible when the exhibit is reduced to 8-1/2" x 11" and include a graphic scale. Public access improvements should be sited and designed, managed and maintained in a manner that is consistent with Commission's relevant San Francisco Bay Plan policies. If your proposal does *not* include new public access, please provide a statement as to why access and associated improvements are not feasible at the project site or why in-lieu public access near the project site is not feasible.

(RESPONSE) As we have indicated in the response to your letter of October 29, 2013 regarding Permit "A" above, we have not at this point been able to recommend or to find suitable alternative public access within the Jack London Square area (or the Pavilion area) that could supplant the proposed uses we are requesting. If there is any possibility this option is or would be feasible we would entertain working with your staff to address this issue. The public shore and public access in this area appear to be fully dedicated at this time. Our contention, however, is that one of the major benefits of the new wall system is that more public access can be achieved at the current location due primarily to the time saving systems that have been installed that permit transition of the space after a private event to a public event. This will enhance public access from what it used to be with the old tent wall system.

We hope that we have been able to address the issues you raise in your letter and will be amending permit applications as necessary to move this project forward as necessary.

We look forward to working again with you and the BCDC staff and the Commission to provide a reasonable and useful rededicated Public Pavilion within Jack London Square. I am available to meet at any time to try and finalize any outstanding issues.

Sincerely,



Steven Fagalde  
President, Scott's Jack London Seafood, Inc.

cc: Richard Sinkoff, Port of Oakland  
Jose M. Herrera-Preza, City of Oakland  
Steven Hanson

Enclosure:  
BCDC shoreline Band Exhibit  
Revised Drawings with Proposed Revisions (as submitted to the City of Oakland)

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# PUBLIC PAVILION

Jack London Square  
Oakland, California

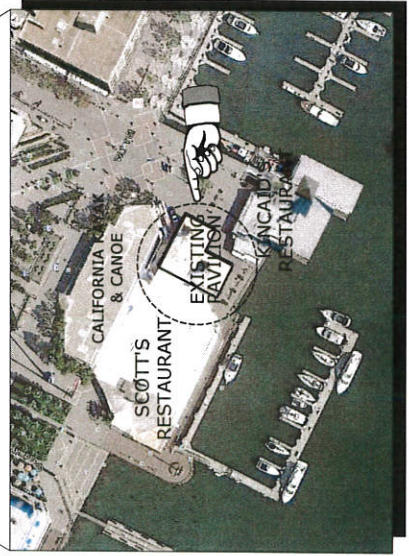
Material Amendment Request for Permanent  
Outdoor Structures at Scott's Jack London  
Seafood Restaurant



REGIONAL MAP



VICINITY MAP



## SCOPE OF WORK

The items included in this amendment application are divided in two(2) groups in accordance with the permits previously submitted as follows:

- A. BCDC Permit Application No 1985.019.021A
- B. BCDC Permit Application No 1985.019.011B

## MATERIAL AMENDMENT SCHEDULE

BCDC Permit Application No 1985.019.021A			BCDC Permit Application No 1985.019.011B		
ITEM	DESCRIPTION	STATUS	ITEM	DESCRIPTION	STATUS
A-I	255 SQ.FT. STORAGE, ATTACHED TO SCOTT'S RESTAURANT EASTERN WALL. SEE ENLARGED PLAN 1/A.3.1	EXISTING / CONSTRUCTED / IN PLACE. NON-AUTHORIZED	B-I	30 FEET LONG NON-RETRACTABLE PANELS WALL AT THE NORTHERN SIDE OF PAVILLION WITH DOUBLE SWING SERVICE DOOR	EXISTING / CONSTRUCTED / IN PLACE. NON-AUTHORIZED
A-II	122 SQ.FT. BREEZEWAY AREA BETWEEN SCOTT'S RESTAURANT AND PAVILLION. SEE ENLARGED PLAN 1/A.3.1	PENDING CONSTRUCTION OF ITS NORTHERN WALL & DOOR	B-II	PERMANENT METAL DOOR FRAME ON THE EAST WALL OF THE PAVILLION WITH REMOVABLE METAL FRAME GLASS DOORS	EXISTING / CONSTRUCTED / IN PLACE. GLASS DOORS ARE SHOWN NOT INSTALLED. NON-AUTHORIZED
A-III	16'-42" Wx30D"x16H METAL PLANTER BOXES (SEE A.1.1, A.1.2, A.2 AND A.3.1)	NOT EXISTING (PROPOSED)	B-III	APPROX. 10 FEET LONG RETRACTABLE PANELS AT THE WESTERN SIDE OF PAVILLION (SOUTH OF THE STORAGE AREA) SEE 3/A.2	NON EXISTING / NON-AUTHORIZED
<b>KEY</b>  EXISTING - AUTHORIZED EXISTING - NOT AUTHORIZED PROPOSED - NOT AUTHORIZED			B-IV	METAL FRAME GLASS DOOR IN THE WESTERN PAVILLION WALL (SOUTH OF THE STORAGE AREA)	NOT EXISTING (PROPOSED)
			B-V	ROLL-UP DOOR, WOOD CURTAINS AND AWNING IN THE WESTERN PAVILLION WALL (STORAGE EASTERN SIDE)	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED
			B-VI	14'-10" LONG NON RETRACTABLE PANELS WALL AT THE WESTERN SIDE OF PAVILLION (NORTH OF STORAGE AREA) - SEE 3/A.2	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED
			B-VII	ILLUMINATED EXIT SIGN NEAR THE METAL DOOR FRAMES	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED
			B-VIII	RETRACTABLE PANELS ALL AROUND PAVILLION PERIMETER	EXISTING / CONSTRUCTED / IN USE NON-AUTHORIZED

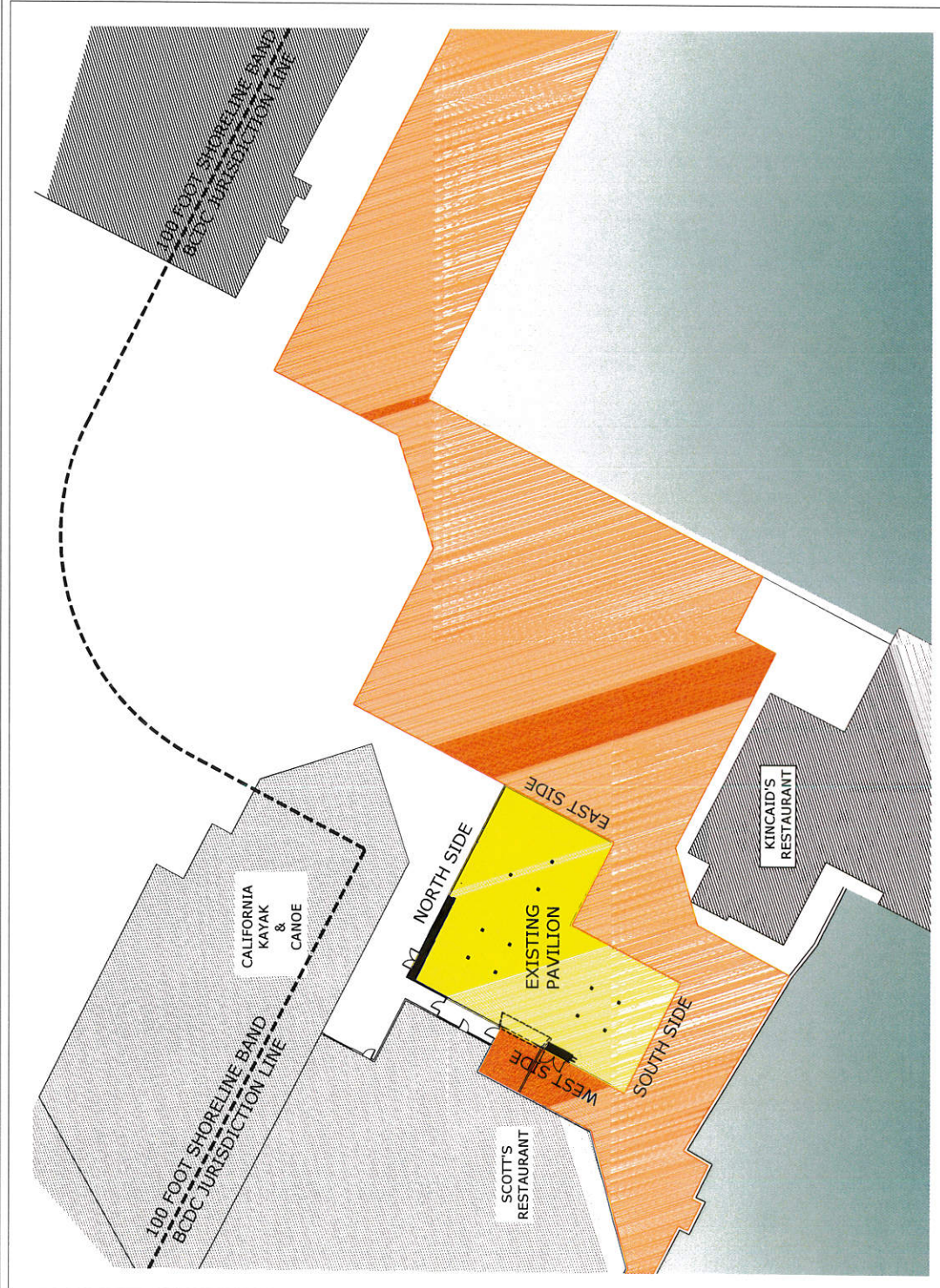
## DRAWING INDEX

DRAWING INDEX			PROJECT TEAM	
A.0.1	VICINITY MAP	A.2.1	Presented by: Steven Hanson, Consultant, Scott's Seafood Restaurants Steve Fagalde, President, Scott's Seafood Restaurants Prepared by: Juan Rubio RUBIO BOWDEN DESIGN	
A.0.2	PUBLIC ACCESS PLAN	A.2.2		
A.1.1	PAVILLION FLOOR PLAN			
A.1.2	PRIVATE USE PAVILLION FLOOR PLAN	A.3.1		
A.1.3	PUBLIC USE PAVILLION FLOOR PLAN	A.3.2		
	TABLE LAYOUT PLAN			

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PUBLIC ACCESS PLAN

scale: 1/16" = 1'-0"

LEGEND

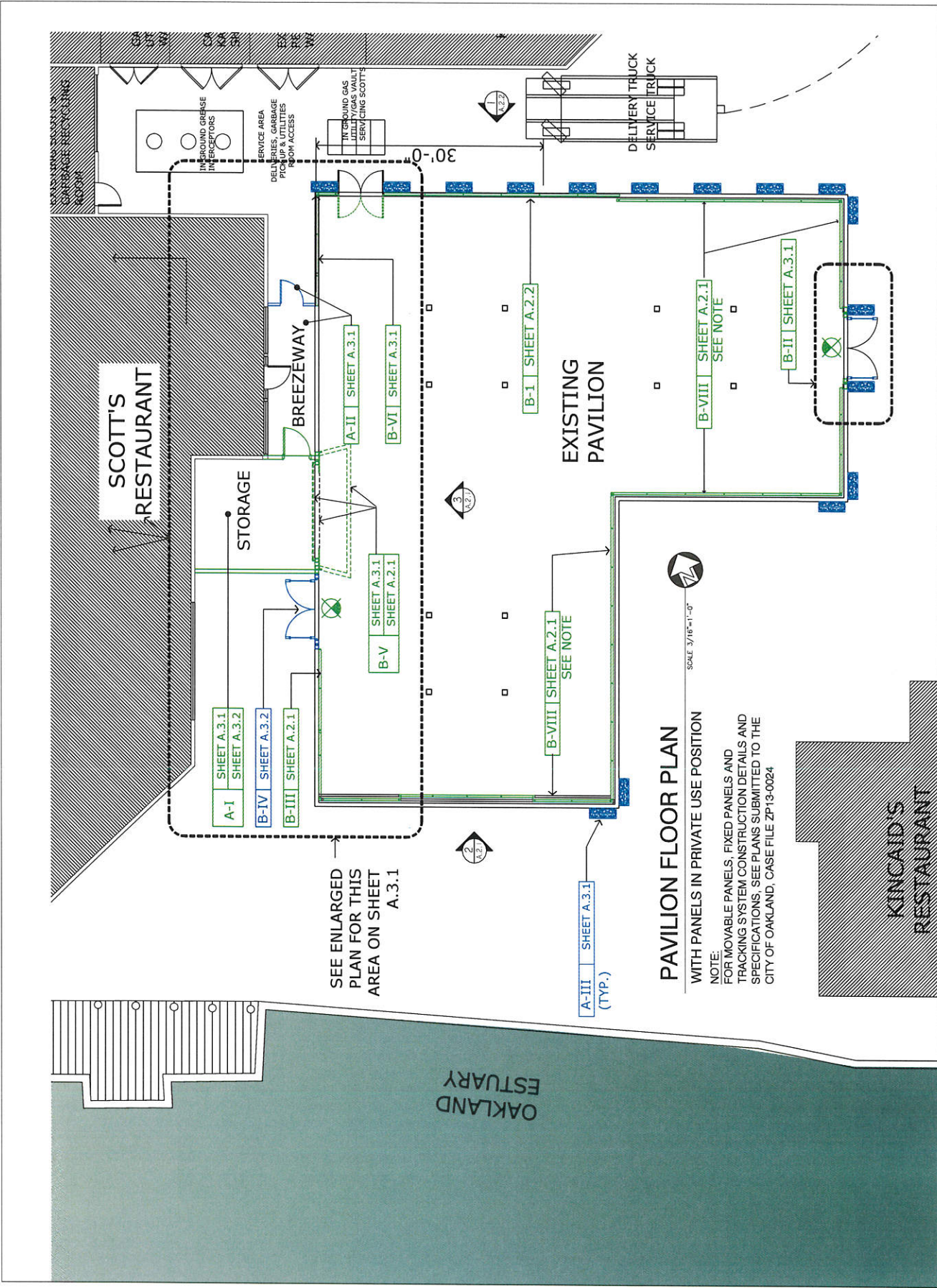
-  Public Access required by BCDC Permit No. 1985.019.021A
-  Public Access required by BCDC Permit No. 1985.019.011B





# PAVILION JACK LONDON SQUARE

SHEET NUMBER	A.1.1
SCALE	AS NOTED
WITH PANELS IN PRIVATE USE POSITION	
PAVILION FLOOR PLAN	
DATE	05/27/2014
BY	BCDC
DATE	11/20/2013
BY	BCDC



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SCALE 1/4"=1'-0"



**Subject:** FW: Application Checks, etc. (BCDC Permit Application Nos. 1985.019 A and B)

**Date:** Wednesday, May 28, 2014 4:36:24 PM PT

**From:** Adrienne Klein

**To:** Grace Gomez

Please E File Steve Hanson's response, too. THANKS!!!!

**From:** Steven Hanson <[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)>

**Date:** Wednesday, May 28, 2014 2:42 PM

**To:** Adrienne Klein <[adriennek@bcdcc.ca.gov](mailto:adriennek@bcdcc.ca.gov)>

**Cc:** 'Steve Fagalde' <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>, 'Richard Sinkoff' <[rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com)>, 'Douglas Herman' <[dherman@portoakland.com](mailto:dherman@portoakland.com)>, John Bowers <[johnb@bcdcc.ca.gov](mailto:johnb@bcdcc.ca.gov)>, Brad McCrea <[bradm@bcdcc.ca.gov](mailto:bradm@bcdcc.ca.gov)>, 'Jennifer Koidal' <[jenni@jacklondonsquare.com](mailto:jenni@jacklondonsquare.com)>, "'Morris, Caroline'" <[caroline@ellispartners.com](mailto:caroline@ellispartners.com)>, "'Peter S. Prows'" <[pprows@briscoelaw.net](mailto:pprows@briscoelaw.net)>

**Subject:** RE: Application Checks, etc. (BCDC Permit Application Nos. 1985.019 A and B)

Dear Adrienne

Thank you for your comments on my email. I appreciate the chance to rectify misunderstandings and failures on our part. As a note, I am preparing a response to those letters as well as the exhibits required of our final submittals to the City of Oakland. We have a follow-up meeting scheduled with the City Planner, Jose Herrera-Preza this Friday morning. As noted, the City will conduct its own design review. I will investigate the issue of the roof overhang and provide information as necessary! We will keep you posted.

Thanks

Steve Hanson

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)

415-314-0172

My website:

<http://sites.google.com/site/hansonstevenwork/>

**From:** Adrienne Klein [<mailto:adriennek@bcdcc.ca.gov>]

**Sent:** Wednesday, May 28, 2014 2:33 PM

**To:** Steven Hanson

**Cc:** Steve Fagalde; Richard Sinkoff; Douglas Herman; John Bowers; Brad McCrea; Jennifer Koidal; Morris, Caroline; Peter S. Prows

**Subject:** Application Checks, etc. (BCDC Permit Application Nos. 1985.019 A and B)

Dear Steve,

Thank you for your email. It's unfortunate that you thought that you had answered all of our questions. We've been very clear and consistent in communicating to Steve Fagalde and his representatives, including Peter Prows and yourself, that the two pending permit applications were not complete. Thank you for stating your willingness to draft specific responses to our letters and complete the application



**Subject:** Application Checks, etc. (BCDC Permit Application Nos. 1985.019 A and B)  
**Date:** Wednesday, May 28, 2014 2:32:58 PM Pacific Daylight Time  
**From:** Adrienne Klein  
**To:** Steven Hanson  
**CC:** Steve Fagalde, Richard Sinkoff, Douglas Herman, John Bowers, Brad McCrea, Jennifer Koidal, Morris, Caroline, Peter S. Prows

Dear Steve,

Thank you for your email. It's unfortunate that you thought that you had answered all of our questions. We've been very clear and consistent in communicating to Steve Fagalde and his representatives, including Peter Prows and yourself, that the two pending permit applications were not complete. Thank you for stating your willingness to draft specific responses to our letters and complete the application process.

Regarding the permit application fees, I want to clarify that you have indeed submitted the total application processing fee. I just reviewed the file again and discovered that I made that point clear in an email to Peter Prows five months ago. During last week's conversation, however, I had forgotten. We apologize for the confusion.

Lastly, thank you for clarifying that you will push the City to issue whatever local discretionary approval is needed to move the BCDC application forward. We look forward to receiving that. Also, you have indicated that the City staff believes that the project qualifies for either a statutory or categorical exemption under CEQA. That type of determination will satisfy BCDC's permit application filing requirements under CEQA.

As a reminder, during a meeting with Steve Fagalde on April 17, 2014, we informed him that we had determined that the entire project must be expressly authorized by the Commission rather than minor portions being eligible for approval exclusively via plan review. Simply, this means you must request authorization for all project elements in the appropriate application (A or B) and also show all project elements on the project plans, much as you successfully did for the plans you prepared for the DRB. Please bear this in mind when you prepare your responses to our letters dated October 29, 2014.

Also, since sending our letters dated October 29, 2014, and also as communicated to Mr. Fagalde during our meeting on April 17, 2014, we believe we have identified another component of the project. Based on aerial image reviews, we believe Scott's has constructed a roof extension connection the roof of the Scott's main building with roof of the pavilion over the area you call the breezeway, located north of the stage. Please either show us that this roof is already authorized in another permit or include it as part of the pending application and plans to Permit No. 1985.019A, the Port's permit.

Sincerely,

Adrienne

-----  
Adrienne Klein

Chief of Enforcement  
SF BCDC  
455 Golden Gate Ave., Suite 10600  
San Francisco, CA 94102-7019  
Direct: (415) 352-3609  
Main: (415) 352-3600  
<http://www.bcdc.ca.gov>

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**From:** Steven Hanson <[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)>  
**Date:** Wednesday, May 21, 2014 10:47 AM  
**To:** Adrienne Klein <[adriennek@bcdc.ca.gov](mailto:adriennek@bcdc.ca.gov)>  
**Subject:** FW: Application checks

Adrienne, I apologize - I had some extra and wrong letters in your email address so this bounced back. I think it is correct now.

Thanks  
Steve Hanson

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)  
415-314-0172  
My website:  
<http://sites.google.com/site/hansonstevenwork/>

---

**From:** Steven Hanson [<mailto:hansonsteven@gmail.com>]  
**Sent:** Wednesday, May 21, 2014 10:44 AM  
**To:** [adriennek@bcdc.ca.gov](mailto:adriennek@bcdc.ca.gov); [bradm@bcdc.ca.gov](mailto:bradm@bcdc.ca.gov)  
**Cc:** [rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com); [dherman@portoakland.com](mailto:dherman@portoakland.com); [stevef@scottscorp.com](mailto:stevef@scottscorp.com)  
**Subject:** Application checks

Dear Adrienne and Brad

Thank you very much for your time yesterday afternoon. That was a helpful discussion and we really appreciate the clear and concise discussion (without weeds -yet). In our defense we thought that we had answered all of the questions addressed in each of those letters via the submittal of our application? We were careful I thought to address those questions. Be that as it may, we will draft specific response to each of those letters forthwith. As an update we have submitted to the City of Oakland on two occasions applications and fees for development review. The last such application was submitted in August. We did a follow-up with the City in January, but will push them now for a full review and permit approval. The City staff has told us that this project would be considered a Category 1 in terms of Environmental review, however we understand that the full review and approval process must take place. Finally, to save time on all our parts, I have copied per the attachment, the checks paid to BCDC with the submittal of our applications in September. Each application was accompanied by a check for \$1,400. We will be moving to address issues you raised yesterday at all deliberate speed and again, we understand the issues you raise and will focus on resolving these issues so that we can address other concerns and actions that we know you will address in the near future.

Thanks  
Steve Hanson

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)

415-314-0172

My website:

<http://sites.google.com/site/hansonstevenwork/>



**Subject:** FW: Application checks

**Date:** Wednesday, May 21, 2014 10:47:43 AM Pacific Daylight Time

**From:** Steven Hanson

**To:** adriennek@bcdc.ca.gov

Adrienne, I apologize - I had some extra and wrong letters in your email address so this bounced back. I think it is correct now.

Thanks

Steve Hanson

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)

415-314-0172

My website:

<http://sites.google.com/site/hansonstevenwork/>

---

**From:** Steven Hanson [mailto:hansonsteven@gmail.com]

**Sent:** Wednesday, May 21, 2014 10:44 AM

**To:** adriennek@bcdc.ca.209; bradm@bcdc.ca.gov

**Cc:** rsinkoff@portoakland.com; dherman@portoakland.com; stevef@scottscorp.com

**Subject:** Application checks

Dear Adrienne and Brad

Thank you very much for your time yesterday afternoon. That was a helpful discussion and we really appreciate the clear and concise discussion (without weeds -yet). In our defense we thought that we had answered all of the questions addressed in each of those letters via the submittal of our application? We were careful I thought to address those questions. Be that as it may, we will draft specific response to each of those letters forthwith. As an update we have submitted to the City of Oakland on two occasions applications and fees for development review. The last such application was submitted in August. We did a follow-up with the City in January, but will push them now for a full review and permit approval. The City staff has told us that this project would be considered a Category 1 in terms of Environmental review, however we understand that the full review and approval process must take place. Finally, to save time on all our parts, I have copied per the attachment, the checks paid to BCDC with the submittal of our applications in September. Each application was accompanied by a check for \$1,400. We will be moving to address issues you raised yesterday at all deliberate speed and again, we understand the issues you raise and will focus on resolving these issues so that we can address other concerns and actions that we know you will address in the near future.

Thanks

Steve Hanson

[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)

415-314-0172

My website:

**Subject:** Re: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit No. 1985.019B)  
**Date:** Tuesday, May 20, 2014 2:24:03 PM Pacific Daylight Time  
**From:** Adrienne Klein  
**To:** Steve Fagalde, Richard Sinkoff  
**CC:** Brad McCrea, John Bowers, Peter S. Prows, Douglas Herman, Diane Heinze

Hi Steve,

Good suggestion and here you go.

These letters are a subset of the entirety of our communications to date but comprise the main enforcement and application filing communications.

Adrienne

---

**From:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>  
**Date:** Tuesday, May 20, 2014 12:57 PM  
**To:** Adrienne Klein <[adriennek@bcdca.gov](mailto:adriennek@bcdca.gov)>, Richard Sinkoff <[rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com)>  
**Cc:** Brad McCrea <[bradm@bcdca.gov](mailto:bradm@bcdca.gov)>, John Bowers <[johnb@bcdca.gov](mailto:johnb@bcdca.gov)>, "Peter S. Prows" <[pprows@briscoelaw.net](mailto:pprows@briscoelaw.net)>, Douglas Herman <[dherman@portoakland.com](mailto:dherman@portoakland.com)>, Diane Heinze <[dheinze@portoakland.com](mailto:dheinze@portoakland.com)>  
**Subject:** RE: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit No. 1985.019B)

Adrienne

Are there going to be any documents or letters that you reference back to? if so, can you distribute via this email chain prior?

Stephen E. Fagalde  
Phone: (510) 302-0999

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**From:** Adrienne Klein [<mailto:adriennek@bcdca.gov>]  
**Sent:** Tuesday, May 20, 2014 12:57 PM  
**To:** Steve Fagalde; Richard Sinkoff  
**Cc:** Brad McCrea; John Bowers; Peter S. Prows; Douglas Herman; Diane Heinze  
**Subject:** Re: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit No. 1985.019B)

At 4pm, please call 1-877-540-9892 and use participant code 374334.

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**From:** Adrienne Klein <[adriennek@bcdca.gov](mailto:adriennek@bcdca.gov)>  
**Date:** Tuesday, May 20, 2014 12:46 PM  
**To:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>, Richard Sinkoff <[rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com)>  
**Cc:** Brad McCrea <[bradm@bcdca.gov](mailto:bradm@bcdca.gov)>, John Bowers <[johnb@bcdca.gov](mailto:johnb@bcdca.gov)>, "Peter S. Prows" <[pprows@briscoelaw.net](mailto:pprows@briscoelaw.net)>, Douglas Herman <[dherman@portoakland.com](mailto:dherman@portoakland.com)>, Diane Heinze <[dheinze@portoakland.com](mailto:dheinze@portoakland.com)>  
**Subject:** Re: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit

No. 1985.019B)

Dear All,

I will set up a conference call for us and send a call in number this afternoon.

Thanks,

Adrienne

---

**From:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>

**Date:** Tuesday, May 20, 2014 12:28 PM

**To:** Richard Sinkoff <[rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com)>

**Cc:** Adrienne Klein <[adriennek@bcdca.gov](mailto:adriennek@bcdca.gov)>, Brad McCrea <[bradm@bcdca.gov](mailto:bradm@bcdca.gov)>, John Bowers <[johnb@bcdca.gov](mailto:johnb@bcdca.gov)>, "Peter S. Prows" <[pprows@briscoelaw.net](mailto:pprows@briscoelaw.net)>, Douglas Herman <[dherman@portoakland.com](mailto:dherman@portoakland.com)>, Diane Heinze <[dheinze@portoakland.com](mailto:dheinze@portoakland.com)>

**Subject:** Re: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit No. 1985.019B)

If you can join that would be great

Steve Fagalde  
(510) 302-0999

Sent from my iPhone

On May 20, 2014, at 12:00 PM, "Richard Sinkoff" <[rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com)> wrote:

Steve F.:

Do you plan to make this a conference call or will you just speak directly to Ms. Klein?  
Please let Doug Herman and me know if you would like us to join the call and please provide a conference link if that is the case.

We are happy to join the call.

Thanks.

Richard

---

**From:** Adrienne Klein [<mailto:adriennek@bcdca.gov>]

**Sent:** Tuesday, May 20, 2014 11:40 AM

**To:** Steve Fagalde

**Cc:** Brad McCrea; John Bowers; Richard Sinkoff; Peter S. Prows

**Subject:** Re: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit No. 1985.019B)

Dear Steve,

Thanks for your prompt reply last night.

Let's talk by phone today at 4pm, although you are most welcome to meet in person if



you prefer.

I'll use the number noted below unless you elect to join us here.

Sincerely,

Adrienne

---

**From:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>

**Date:** Monday, May 19, 2014 7:06 PM

**To:** Adrienne Klein <[adriennek@bcdc.ca.gov](mailto:adriennek@bcdc.ca.gov)>

**Cc:** Brad McCrea <[bradm@bcdc.ca.gov](mailto:bradm@bcdc.ca.gov)>, John Bowers <[johnb@bcdc.ca.gov](mailto:johnb@bcdc.ca.gov)>, Richard Sinkoff <[rsinkoff@portoakland.com](mailto:rsinkoff@portoakland.com)>

**Subject:** Re: Scott's Jack London Seafood Restaurant (Enforcement Case No. ER2013.009 and BCDC Permit No. 1985.019B)

I can be available by phone tomorrow at 4 or in person at 4 on Wednesday  
I'll let you decide which one you think would be most productive and effective

Steve Fagalde  
(510) 302-0999

Sent from my iPhone

On May 19, 2014, at 5:49 PM, "Adrienne Klein" <[adriennek@bcdc.ca.gov](mailto:adriennek@bcdc.ca.gov)> wrote:

Dear Steve,

Brad asked me to set up a meeting with you this week.

I believe we are free at the following times:

Tuesday, May 20  
4-5 pm

Wednesday, May 21  
2-3 pm  
3-4 pm  
4-5 pm

Thursday, May 22  
9-10 am  
10-11 am

Please indicate all of your availability and we will confirm a time. We are happy to meet you here or conduct the meeting by telephone.

Sincerely,

Adrienne

---

Adrienne Klein

Chief of Enforcement

SF BCDC

455 Golden Gate Ave., Suite 10600

San Francisco, CA 94102-7019

Direct: (415) 352-3609

Main: (415) 352-3600

<http://www.bcdc.ca.gov>

**Subject:** Re: Letter response to DRB comments attached  
**Date:** Monday, May 19, 2014 4:10:03 PM Pacific Daylight Time  
**From:** Adrienne Klein  
**To:** Steve Fagalde  
**CC:** 'Ellen Miramontes', Morris, Caroline, Peter S. Prows, Jennifer Koidal, Richard Sinkoff

Dear Steve,

Thanks for your submittal, which proposes two modifications to the project from that presented to the DRB in February. We have determined not to take you back to the DRB based on the limited nature of the modifications.

Please proceed with completing both permit applications so that the Commission can consider your proposals. In the interim, we would appreciate knowing when you believe you can complete these two applications.

Finally, while I have some data from the Port, could you please advise me how many events you have held this year (i.e. How many days the pavilion has been occupied for any private use) , how many future privatizations you have scheduled and when you will reach the 73rd day of privatization, the maximum allowed under the permit?

Sincerely,

Adrienne

-----  
Adrienne Klein  
Chief of Enforcement  
SF BCDC  
455 Golden Gate Ave., Suite 10600  
San Francisco, CA 94102-7019  
Direct: (415) 352-3609  
Main: (415) 352-3600  
<http://www.bcdc.ca.gov>

Adrienne

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**From:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>  
**Date:** Monday, May 19, 2014 11:20 AM  
**To:** Adrienne Klein <[adriennek@bcdd.ca.gov](mailto:adriennek@bcdd.ca.gov)>  
**Cc:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>, 'Ellen Miramontes' <[ellenm@bcdd.ca.gov](mailto:ellenm@bcdd.ca.gov)>  
**Subject:** Letter response to DRB comments attached

Stephen E. Fagalde  
Phone: (510) 302-0999





**Subject:** FW: applications  
**Date:** Thursday, May 15, 2014 3:08:22 PM Pacific Daylight Time  
**From:** Brad McCrea  
**To:** Adrienne Klein  
**Category:** Global Address List

Adrienne, this is a perfect opportunity to suggest a meeting instead of another list that will get lost or forgotten.

---

**From:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>  
**Date:** Thursday, May 15, 2014 2:40 PM  
**To:** Adrienne Klein <[adriennek@bccdc.ca.gov](mailto:adriennek@bccdc.ca.gov)>, Ellen Miramontes <[ellenm@bccdc.ca.gov](mailto:ellenm@bccdc.ca.gov)>  
**Cc:** Brad McCrea <[bradm@bccdc.ca.gov](mailto:bradm@bccdc.ca.gov)>, "[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)" <[hansonsteven@gmail.com](mailto:hansonsteven@gmail.com)>, Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>  
**Subject:** applications

Adrienne

I wanted to clarify an item. I'm not sure if it was through verbal communications or your last email, but I think I had heard that according to BCDC, our application is incomplete. Attached is what was submitted and would need help understanding what is incomplete. It was my understanding that everything has been submitted.

If you can give me some guidance, I would sincerely appreciate it. Thank you in advance

Stephen E. Fagalde  
Phone: (510) 302-0999

**Subject:** RE: BCDC Permit Application Numbers 1985.019 A and B (Scott's Jack London Seafood Restaurant)  
**Date:** Thursday, May 15, 2014 2:28:38 PM Pacific Daylight Time  
**From:** Steve Fagalde  
**To:** 'Adrienne Klein'  
**CC:** Ellen Miramontes, Brad McCrea

Adrienne

I have Steve Hanson typing up our responses to the 9 points from the DRB (there are actually 9 not 10). You should have them by tomorrow. As far as revised drawings, those should be ready by Monday. It was my hope that you would give me feedback though on my proposal because I would prefer to go back to the architect one last time for revised drawings. Nonetheless, you should have everything by Monday. I hope that is acceptable to still be considered to go in front of the DRB on June 9<sup>th</sup>

In addition, I received from Steve Hanson the electronic files today of the required site postings. I will immediately have Hawkins and Hawkins in Berkeley make the signs so the can be immediately posted.

Thank you!

Stephen E. Fagalde  
Phone: (510) 302-0999

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**From:** Adrienne Klein [mailto:adriennek@bccdc.ca.gov]  
**Sent:** Friday, May 09, 2014 4:35 PM  
**To:** Steve Fagalde  
**Cc:** Ellen Miramontes; Brad McCrea  
**Subject:** BCDC Permit Application Numbers 1985.019 A and B (Scott's Jack London Seafood Restaurant)

Dear Steve,

During the meeting, you first described your desire to retain the as built structure with two possible modifications: installation of the main entry doors only during events and shortening of north wall from 40 to 30 feet in it's retracted.

We then reviewed the DRB's 10 points and stated that you should respond to each point in writing. As part of this response, we stated that you should (1) include a discussion of the other types of systems you investigated and rejected and why, and (2) analyze the possibility of relocating the west wall so it could be located in front of the stage when it's retracted. We explained that your responses will be part of the staff findings on the pending, incomplete application.

We did state that depending on the extent of modifications to your as-built proposal, we may or may not take it back to the DRB. We will make this determination upon receiving your responses to the 10 points and revised plans that match your revised project proposal/description.

The exhibits for the next DRB meeting are due a week from today on May 16th. The next DRB meeting will occur on June 9th. It would be great to receive your response to the DRB's comments and your revised plans and project description next week so we can bring the project to the DRB in June should we determine that to be necessary.

In addition to responding to the DRB's comments, please respond to the application filing letters that we



**Subject:** BCDC Permit Application Numbers 1985.019 A and B (Scott's Jack London Seafood Restaurant)  
**Date:** Friday, May 9, 2014 4:34:46 PM Pacific Daylight Time  
**From:** Adrienne Klein  
**To:** Steve Fagalde  
**CC:** Ellen Miramontes, Brad McCrea  
**BCC:** Morris, Caroline, Jennifer Koidal, Peter S. Prows

Dear Steve,

During the meeting, you first described your desire to retain the as built structure with two possible modifications: installation of the main entry doors only during events and shortening of north wall from 40 to 30 feet in it's retracted.

We then reviewed the DRB's 10 points and stated that you should respond to each point in writing. As part of this response, we stated that you should (1) include a discussion of the other types of systems you investigated and rejected and why, and (2) analyze the possibility of relocating the west wall so it could be located in front of the stage when it's retracted. We explained that your responses will be part of the staff findings on the pending, incomplete application.

We did state that depending on the extent of modifications to your as-built proposal, we may or may not take it back to the DRB. We will make this determination upon receiving your responses to the 10 points and revised plans that match your revised project proposal/description.

The exhibits for the next DRB meeting are due a week from today on May 16th. The next DRB meeting will occur on June 9th. It would be great to receive your response to the DRB's comments and your revised plans and project description next week so we can bring the project to the DRB in June should we determine that to be necessary.

In addition to responding to the DRB's comments, please respond to the application filing letters that we sent to you on October 29, 2013. You should be working to complete both applications as soon as possible so that we can get you in front of the Commission.

Thanks for the well wishes this weekend. Hope you have a good weekend, too.

Sincerely,

Adrienne

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Adrienne Klein

Chief of Enforcement  
SF BCDC  
455 Golden Gate Ave., Suite 10600  
San Francisco, CA 94102-7019  
Direct: (415) 352-3609  
Main: (415) 352-3600  
<http://www.bcdc.ca.gov>

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**From:** Steve Fagalde <[stevef@scottscorp.com](mailto:stevef@scottscorp.com)>

**Date:** Friday, May 9, 2014 12:55 PM

**To:** Adrienne Klein <[adriennek@bccdc.ca.gov](mailto:adriennek@bccdc.ca.gov)>

**Subject:** message

Hi Adrienne

I received your message. At the end of our last, in person meeting, I was left with the impression that you guys were going to regroup and get back to me. I am more than happy to come back out and/or do whatever may be needed to move forward

Not sure if you have kids or not, but if you do, I hope you have a nice Mother's Day this weekend!

thanks

Stephen E. Fagalde  
Phone: (510) 302-0999

# Scott's Restaurant

4.17.14

Peter  
Steve F.  
John B.  
Bob B.  
Ellen M.  
Adrienne K.

Steve Fagalde

- 1) planters necessary to protect structure
  - safety from service vehicles
  - get hydraulic jack
  - place on inside of wall in pavilion
  - CCK - says no room in service area

- 2) stacked walls on north side
  - move 2 panels and stack further in
    - "can be done but should not be done"
    - provides screen to service, ~~doors~~ do not block views.
  - 10' or 15' shorter
  - view corridor in permit not impacted.

- 3) door structure
  - structural engineer - # doors required
  - roll-<sup>letter</sup>away door structure frame stays.

- 4) storage room
  - put ~~door~~ <sup>roll-away</sup> door in storage.....
  - chairs, tables
  - jack

began Dec. 2011



4.11.74

Continuation of 4.11.74

1. 10.11.74

2. 10.11.74

3. 10.11.74

4. 10.11.74

5. 10.11.74

6. 10.11.74

7. 10.11.74

8. 10.11.74

9. 10.11.74

10. 10.11.74

11. 10.11.74

12. 10.11.74

13. 10.11.74

14. 10.11.74

15. 10.11.74

16. 10.11.74

17. 10.11.74

18. 10.11.74

19. 10.11.74

20. 10.11.74

21. 10.11.74

22. 10.11.74

Request Responses.

More info from Abbott's

- share earlier proposals
- moving panels / door in front of stage
- more info. on moving planters.

respond to 10 points of  
DR B summary and conclusions.

Project - Project

Time with the family

Project - Project

Project - Project

Project - Project

Project - Project

Project - Project



# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

455 Golden Gate Avenue, Suite 10600 • San Francisco, California 94102 (415) 352-3600 • Fax: (415) 352-3606 • www.bcdc.ca.gov

February 28, 2014

**TO:** Design Review Board Members

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; lgoldzband@bcdc.ca.gov)  
Ellen Miramontes, Bay Design Analyst (415/352-3643; ellenm@bcdc.ca.gov)

**SUBJECT: Approved Minutes of February 10, 2014 BCDC Design Review Board Meeting**

1. **Call to Order and Attendance.** The Design Review Board's Chair, John Kriken, called the meeting to order at approximately 6:40 p.m. Other Design Review Board members in attendance included Vice Chair Steve Thompson, Karen Alschuler, Cheryl Barton, Ephraim Hirsch, Jacinta McCann, Stefan Pellegrini, Gary Strang and Michael Smiley. BCDC staff in attendance included Bob Batha, Adrienne Klein, Ellie Knecht, Brad McCrea and Ellen Miramontes.

2. **Approval of Draft Minutes for the January 6, 2014 Meeting.** The Board approved the minutes from this meeting with one revision. They stated that changes to the proposed Water Emergency Transit Authority (WETA) Central Bay ferry operations building in Alameda were only needed on the eastern end and not on the side facing Hornet Avenue.

3. **Scott's Seafood Restaurant, Jack London Square, Oakland, Alameda County (First Review).** The Board conducted a review of Scott's Jack London Seafood Inc. and the Port of Oakland's proposed design for a replacement enclosure of the public pavilion, authorized for private use 20% of the year (73 days), located on the east side of Scott's Seafood Restaurant at the foot of Franklin Street, Jack London Square in the City Oakland, Alameda County. The project is located entirely within the Commission's 100-foot shoreline band jurisdiction, all of which is required to be publicly accessible. The project does not include any new public access area or improvements. Proposed private improvements in the existing public access area include: (1) a permanent doorway entrance; (2) replacing entirely removable canvas tent walls with permanent, partially retractable wall panels, including two doors; (3) converting 255 square feet of public access to restaurant storage; and (4) placing moveable planters around the periphery of the pavilion to protect the wall panels from vehicular damage.

For a transcript of the meeting proceedings, including the project presentation, Board questions, public comments, Board discussion and the applicant's response, please see the attached transcript.

a. **Staff Presentation.** Adrienne Klein introduced the project and the issues identified in the staff report.

b. **Project Presentation.** Steve Fagalde of Scott's Restaurant presented the proposed project.



*Making San Francisco Bay Better*

**DRB MINUTES**  
**February 10, 2014**

c. **Board Questions.** The Board members asked many clarifying questions regarding the project.

d. **Public Comment.** Three members of the public, including Lee Huo, Keith Miller and Sandy Threlfall, made comments.

e. **Board Discussion.** The Board asked clarifying questions of the applicant and members of the public to make sure they understood the proposal and had a lengthy discussion about its potential impact on the existing required public access.

f. **Board Summary and Conclusions.** The Board made the following summary and conclusions:

✓ (1) The Board discussed the proposed changes and stated that both physical and visual access have been compromised by these modifications and cause the pavilion to feel more private. *must consider throughout*

✓ (2) The Board determined that the permanent door structure on the east side of the pavilion should be removed from the proposal, in part, because it makes the public space feel private and creates a physical and visual obstruction. *keep frame, roll away door*

✓ (3) One Board member recommended that alternate means of enclosing the pavilion (such as an accordion wall or roll-up approach) be investigated to reduce physical and visual obstructions from the enclosure while in both public and private use mode. *Steve will share roll-up make-up photo.*

✓ (4) The Board recommended that open views be maintained through the pavilion towards the Bay. A variety of opinions regarding ways to accomplish this were expressed. Some Board members stated that all permanent structures along the north wall should be removed. Others stated that the proposed wall and stacked panels on the north side of the pavilion should be shortened so that they do not extend beyond the corner of the California Canoe & Kayak building where it angles north. One Board member stated that a wall on the north side might provide some benefit by screening the service functions that occur north of it. *Scott's - leave as is*

✓ (5) The Board agreed that the storage area and wall extensions on the west side of the pavilion block public access in this required public access area and instead represent an extension of Scott's Restaurant. *storage for pavilion - where panels in front of storage area*

✓ (6) The Board agreed that greater efforts should be made with the placement of site furniture, signage and possibly food carts to attract people to use the pavilion when it is available for public use. Providing similar site furnishings both within and outside of the pavilion was recommended as an approach to be considered to decrease its private appearance and draw the public into it. *PA signs not there*

✓ (7) The Board stated that the pavilion walls should be more transparent to allow for greater visibility into the pavilion when it is in private use mode. *will consider*

✓ (8) The Board questioned the practicality of moving the steel planters in and out of place and recommended against using them. Some Board members stated that the planters would create an unwanted barrier in this area. One Board member questioned whether it is appropriate to include planters within the context of this wharf setting. *will provide info on moving*

(9) One Board member asked for more information regarding the exiting requirements for the restaurant and how this is being handled. The Board member specifically asked whether one of the required exits for the restaurant is the door that opens into the pavilion and, if so, how this is addressed under code requirements when the pavilion is in private use mode.

(10) The Board requested a second review, following revisions based on their recommendations.

g. **Project Proponent Response.** Steve Fagalde thanked the Board for their comments and stated that he would take all of them into consideration.

4. **Bottoms Property Residential Development by Shea Homes, Richmond, Contra Costa County (First Review)** The Board conducted a review of Shea Homes' proposed design for a 60-unit residential development and public access improvements at the Bottoms Property between Seacliff Drive and Canal Boulevard in the City of Richmond, Contra Costa County. The buildings would be constructed outside of the Commission's jurisdiction, while some private patios, landscaping, walkways, an entry road, and public access improvements would be located within the 100-foot shoreline band jurisdiction. The project would result in new public access amenities and provide connections to the Bay Trail recently installed by the City of Richmond on the property. Proposed improvements include: (1) widening the existing sidewalk near the project entrance on Seacliff Drive for safer pedestrian and bicycle access to the trail; (2) installing traffic signs and a crosswalk where a new vehicle entrance is proposed along Canal Boulevard at the northwest corner of the site; (3) providing approximately 12 public access parking spaces at the adjacent Port of Richmond property; and (4) installing landscaping, two benches, an interpretive panel, and two trash cans along the shoreline.

a. **Staff Presentation.** Ellie Knecht introduced the project and the issues identified in the staff report.

b. **Project Presentation.** Rob Wainwright of Wainright Consulting presented the proposed project.

c. **Board Questions.** The Board members asked the following questions:

(1) Ms. Barton asked whether the site is still contaminated in some areas. The project representatives indicated that clean-up work has been completed.

(2) Ms. Alschuler asked about the public parking and whether there would be any public parking provided on the project site as indicated on Exhibit E. Mr. Hofer, with Shea Homes, explained that this notation was not accurate as they are not currently proposing any public parking within the project site.

(3) Mr. Smiley asked whether the proposed development would be gated and whether there would be anything restricting traffic into the site. Mr. Wainwright explained that while the streets would be private, there would be nothing to prevent one from biking or driving through the development.

d. **Public Comment.** The following public comments were made:

(1) Jenny Balisle, a resident of Seacliff, expressed her concern that the proposed development does not include adequate parking. She believes the project will create traffic problems, block views of the Bay and new residents will use parking in the Seacliff development for overflow needs. She further stated that the project ignores the City's 35-foot-height limit and that the project will negatively impact the Bay Trail.

(2) Chris Holmes, Seacliff Homeowners' Association President, stated that he has concerns regarding parking, safety, water access and views. He believes that public parking should be provided on the project site. He stated that Canal Boulevard currently has very fast traffic. He believes that speed bumps and stop signs will be needed within the proposed development and that more should be done to increase bicycle and pedestrian safety at Seacliff Drive. He would very much like to see access to the water included as a part of the project. He further noted that two existing interpretive panels located in a park within his neighborhood would no longer be relevant due to lost views toward the Bay.



(3) Katherine Dienst explained that she is a local resident, sits on the City of Richmond's Land Use Committee and is an urban planner. She stated that the 270-degree views in this area are quite significant. She described the industrial history of the area, explained that the Miller-Knox lands were privately purchased and then contributed to the East Bay Regional Parks District, and described how Brooks Island formerly served as a hunting area. She further stated that water access at this site will be very important as water access will likely be lost at the Terminal One site due to proposed development there. Her husband currently teaches kids to sail in the area directly in front of this proposed development. She further noted that the hillside park receives many visitors and these views would be impacted.

(4) Lee Huo, a planner with the Bay Trail, drew the Board's attention to Exhibits M and O. He explained changes the Bay Trail has advocated for at both Seacliff Drive and Canal Boulevard to address safety concerns regarding the interface between pedestrians and bicyclists and vehicles. While acknowledging that many efforts have been made in these areas, he would like to see curb cuts revised to adequately accommodate pedestrians, persons with disabilities and bicyclists. At the intersection of Canal Boulevard and the proposed B Street, he would like to see bulb-outs in order to shorten the crossing distance and also slow down traffic by means of a tighter turning radius. He also requested that crosswalks contain a bike symbol and suggested some changes to the signage at the intersection of Canal Boulevard and the proposed B Street.

#### **e. Board Discussion**

(1) Mr. Hirsch noted that some of the public comments related to issues that are not under the Board's purview.

(2) Mr. Smiley shared his appreciation for the thorough presentation. He further noted that there should be public access parking provided on the site at the west end adjacent to the trail.

(3) Mr. Strang agreed that public access parking should be provided on the site but this should be accomplished without converting open space into parking.

(4) Mr. Kriken noted that the current proposal for this site is better than earlier proposals that the Board had reviewed in the past for the same site. He also noted that he grew up in the Richmond Annex and is excited to see the tremendous change in this area. He further stated a desire for water access to be included on the project site.

(5) Ms. Alschuler asked staff about a letter the Board had received from Nancy Strauch expressing concerns regarding potential water access and the impacts it may have on a fish nursery and eelgrass in this area. Bob Batha stated that he did not believe that non-motorized boats would negatively impact the eelgrass or fish nursery.

(6) Mr. Smiley observed that the "grid-like connections" to the interior of the site should be strengthened and should "read as strong connectors."

(7) Ms. Barton noted that she would like to see a stronger water feature and also that the more natural landscape approach should be extended from the shoreline into the interior of the site. She further noted that the mounds proposed along the shoreline appeared like a golf course and this grading should rather be accomplished in a more natural manner.

(8) Ms. McCann suggested that the corridors through the site should be made "more powerful" as connections and that views through these corridors should be highlighted. She further noted that there should be a less distinctive transition from the shoreline landscape to the interior landscape.

(9) Mr. Strang noted that the planting plans include an appropriate selection of shoreline plants.

(10) Mr. Thompson stated that the internal circulation system should connect more strongly to the shoreline. He further stated that public access parking should be provided at the west end of the site and water access should also be included.

f. **Project Proponent Response.** Don Hofer with Shea Homes thanked the Board for their input. He stated that the existing interpretive displays in the hillside park could either be relocated or duplicated. He noted that the proposed site plan intentionally sought to discourage public trail connections through the site. He further noted that Canal Boulevard is not widely used by the public. Rob Wainwright stated that the concept with the central corridor was to keep foot traffic out of this area and rather highlight it as a natural corridor. Mr. Hofer further explained that originally the development included 74 homes but was revised to 60 homes due to a large area of Bay mud along Canal Boulevard that was discovered to be unsuitable for development. He explained that the increase in open space within the development has led to increased Homeowners' Associations fees that are estimated to be \$300 per month.

g. **Board Summary and Conclusions.** The Board made the following conclusions:

(1) The Board stated their agreement with Bay Trail recommendations to improve pedestrian and bicycle connections at both Seacliff Drive and Canal Boulevard.

(2) The Board agreed that public access parking should be provided at the west end of the project site near Seacliff Drive and adjacent to the trail.

(3) The Board agreed that there should be access to the water's edge by means of a ramp leading down from the existing trail.

(4) The Board agreed that the more natural shoreline landscape should connect more strongly into the interior of the site through the four corridors located between buildings. Some members stated that the walkways should not appear as private and should rather provide a greater connection into the site, and even potentially through the site, from the shoreline to Canal Boulevard via the natural corridor that has a water feature.

(6) The Board concluded that they do not need to review the project further.

5. **Adjournment.** Mr. Kriken adjourned the meeting at approximately 10:30 p.m.

Respectfully submitted,

ELLEN MIRAMONTES  
Bay Design Analyst

Approved, with no corrections at the  
Design Review Board Meeting of March 10, 2014





STATE OF CALIFORNIA  
SAN FRANCISCO BAY CONSERVATION  
AND DEVELOPMENT COMMISSION  
DESIGN REVIEW BOARD

DESIGN REVIEW BOARD MEETING

MILTON MARKS CONFERENCE CENTER  
SAN DIEGO ROOMS  
455 GOLDEN GATE AVENUE  
SAN FRANCISCO, CALIFORNIA

MONDAY, FEBRUARY 10, 2014  
6:30 P.M.

## APPEARANCES

### Board Members

John Kriken, Chair

Steve Thompson, Vice Chair

Karen Alschuler

Cheryl Barton

Ephraim Hirsch

Jacinta McCann

Stefan Pellegrini

Gary Strang

Michael Smiley

### BCDC Staff

Bob Batha, Chief of Permits

Adrienne Klein, Chief of Enforcement

Ellie Knecht, Coastal Program Analyst

Brad McCrea, Regulatory Program Director

Ellen Miramontes, Bay Design Analyst

### Project Representatives

Steve Fagalde

Scott's Jack London Seafood Inc.

## APPEARANCES

### Public Commentors

Lee Huo  
San Francisco Bay Trail Project

Keith Miller  
California Canoe & Kayak

Sandy Threlfall  
Waterfront Action

# INDEX

	Page
1. Call to Order	--
2. Approval of Draft Minutes for January 6, 2014	--
3. Scott's Seafood Restaurant, Jack London Square, Oakland, Alameda County (First Review)	5
Introduction by Adrienne Klein, BCDC	--
<u>Project Representative</u> ( <i>transcription begins here</i> ) Steve Fagalde	5
Board Members' Clarifying Questions	10
<u>Public Comment</u> Lee Huo Keith Miller Sandy Threlfall	21 23 26
Board Members' Questions and Comments	27
Applicant's Response to Board Members' Questions and Comments	36
4. Bottoms Property Residential Development by Shea Homes, Richmond, Contra Costa County (First Review) ( <i>This agenda item is not included in transcription.</i> )	--
5. Adjournment	--
Certificate of Transcriber	37



## PROCEEDINGS

(Call to Order, Approval of Draft Minutes, Staff Introduction and the very first part of the Project Representative's presentation were missed on the audio recording.)

MR. FAGALDE: -- to improve the turnaround time from private use to public use and back from public use to private use.

The second item was to improve the appearance of the pavilion. As Adrienne mentioned, the former walls on the Pavilion were a canvas material. The canvas material was installed each time that it went into private mode. The canvas walls to put up the entire system took four men approximately four to six hours each time to put them up. They would get up on a lift and put the -- hang the walls as Adrienne mentioned, under the soffit. This system was very time consuming and we were looking to improve upon that.

And then also the third item is to improve the -- enhance the public use and the public access to the site.

After working with the staff for the last few years and considering many different options we came up with what we believe to be good solutions to those challenges. The first one being an improved wall system. We looked at different options such as roll-up doors, different door structures that also slid, and we came up with a wall system that used panels on tracks that slid in and out of place. And it works -- It will be stored in a way that was out of the public access. We came up with a wall system that -- excuse me -- that stored that had no impact on the public access.

Also the addition of a non-intrusive storage room that aided us in a rapid transition from public use to private use and back. And also we are proposing the attractive landscape planters to enhance the landscaping during public use and protection of the system when it's in private use.

I will quickly go over the site characteristics of the site.

So what we are looking at here is Jack London Square, the pavilion is right here, Scott's Seafood Restaurant is right here, this is a retail building here, Kincaid's Restaurant is here. The pavilion is just -- is off of the Franklin Street entrance to Jack London Square.

This shows it a little bit more closely. The existing pavilion is in-between the two rear service areas of each restaurant, Scott's and Kincaid's, and also the rear service area of California Canoe & Kayak. This corridor right here is a common area, a common service area for our building and also California Canoe & Kayak.

We have -- our garbage rooms are right here, garbage room right here. And many of the deliveries that we receive, a majority of our deliveries come through a rear service door right here. We get approximately 100 trucks, service trucks per week that come to that door. In addition, Kincaid's, their garbage rooms are back here. This is where their garbage is collected, along here.

On this slide we also show the BCDC jurisdiction line with the water beyond this side. So the entire project is within the 100-foot BCDC (*Shoreline Band*) jurisdiction.

There's four components to our project that we are proposing. The first one being a retractable wall system. This is the canvas wall system that we previously had in place. As you can see -- you can see how this one is actually an aged canvas wall system. It would actually deteriorate fairly quickly. Once purchased the way that it would go up and down, it would have to be folded and put back into place. If you were looking at it close up it was actually fairly dirty fairly quickly. Unfortunately I don't have pictures of the old canvas wall system but it would actually deteriorate fairly quickly.

And this is the new wall panel system. It's called the Kalwall system. The benefit to this system is that it takes one man approximately 20 minutes by himself to put this system back into public mode. It also takes him the same 20 minutes to put it into private mode as well.

This is a picture of the old -- excuse me. I'm going to refer to it as the old pavilion but previous before improvements. On this side before the wall panel system went in it did not have the doorframe here. And then the way that the pavilion sits today you could see the wall, the permanent wall, the Kalwall on the right and also the doorframe that we are going to discuss here on the left.

This frame shows the wall panels in place. It's a little light on here (*not all drawing lines were visible in projected presentation*) but basically what it's showing is the wall panels go around the entire perimeter of the pavilion. This slide will also show the wall panel construction components up in the left corner. What we used was a track and trolley system. The track is what's called a cannonball system, it's all galvanized. And the trolley, it's like a circular -- it's a circular tube and the trolleys sit within that circular tube so that it's -- and when it's installed it actually goes in from the top so it's impossible for this thing to come off its tracks.

The wall panel which you see here is a Kalwall, it's called Kalwall. It's an insulated panel that's translucent. It allows natural light to go within the -- both in and out of the pavilion walls.

On this shot on the left you can see the tracking system. It's a very intricate track. It was all custom designed and installed onsite. It's a very intricate system that isn't bought off the store shelf or designed somewhere. It actually has to be designed and built onsite.

The second component to what we are proposing this evening is the permanent doorway entrance areas. The main entrance, which is off the Franklin side, would be right here. There is a second permanent door structure which would be up against the Scott's Restaurant side. They're both considered emergency exits. In Section 4 of the submittal package there is a letter from a structural engineer and our architect on the project that discusses the reasons why two exits are required in this space. Because this is considered public assembly, it has a Group A-2 occupancy, which requires two emergency exits. And this would be one and this would be the secondary one. We also have a third door, which would be here, which we are considering a service door for private events. But when it's in public mode that door is blocked because of the stored panels that would be along this wall.

This is a shot of the Franklin Street proposed door. The doorframe is in, is in place now. I want to note that this does show a door on there; the doors are not installed. These were Photoshopped in there and also the planters are Photoshopped in there. The doorframe itself was designed to match the existing structural columns of the building. The structural columns of the building, there's three sets of those. They are on the interior of the space and not on the perimeter to allow for maximum -- to maximize the view corridor out to the water. Again, this doorframe here was designed to match those and blend in.

All entrances would have, would comply with all life safety requirements. This here including all required exit signs.

So this is, this is the Franklin Street doorframe. You can see the exit sign there. This is the doorframe that's up against the restaurant there. The exit sign would be there. Although the doorframe is not in place we have the exit sign there. Currently when we use it in private mode we have a canvas wall that acts as a door right now.

SPEAKER: And the lower right photo is where?

MR. FAGALDE: And this is the service door. This is the service door that's alongside of the -- what I was referring to as the common service areas.

SPEAKER: And that's a permanent wall?

SPEAKER: That's the west side?

SPEAKER: That's a permanent wall?

MR. FAGALDE: This is the permanent wall, yes.

SPEAKER: North side, okay.

MR. FAGALDE: This is the north side. I'll go back. That would be the doors that are right here.

This is the wall system when it's put back into public mode. All the wall panels -- all the wall panels slide along a track. The ones that are coming from this side slide over and they slide right into place right here. It's very light but the wall panels slide parallel to the building. The wall panels that come around this side all slide into, right alongside these dark blue -- these are planters but the wall panels go right along here.

SPEAKER: Could you define the color coding on all of this, please.

MR. FAGALDE: Sure. We're going to get to the planters. The dark blue rectangles are the planters. In my angle I have a hard time seeing the light blue but the light blue right along here would be about three rows of stacked panels. And also right here there's about two or three rows of stacked panels as well.

The third component of our project is a storage area and breezeway. The storage area is right here. It's about 255 square feet. It uses -- it uses two existing walls of the restaurant. It's a wood framed room with a corrugated roof. This storage area allows for quicker turnaround time. We use it to store tables and chairs when it's from the private events. They go into the storage area and it allows for quicker turnaround time of the space.

The breezeway which is right here is basically used to help section off to protect from the weather, the cold, the noise of the service area here. Any basically dust or debris that may come from the service areas here.

This doorframe is proposed as a swinging door that is not permanent or locked ever.

Here are some pictures of the storage room. This is the side view of the storage room. The front view of the storage room has a roll up door. We have some plywood painted curtains for decorative accent. You can see a steel beam right above those curtains, which would be right around here. It has some stage lighting in here that's used during private events. We use risers that would go along here and basically set -- it's used as staging.

You could see the drawing here. This is the corrugated roof, the existing wall of the restaurant. If you stand at the northeast corner of the pavilion that's the view from right here and you're looking out. The building is over here to the right and it does not impact any of the water views. Right behind it is the restaurant, the restaurant wall, so it does not impact any of the water views.

This is a picture of the breezeway. It is currently in place. It does not have any doors, however, we are proposing stainless steel swinging service doors that are never locked.

CHAIR KRIKEN: Can you show the full extent of the fixed wall on the plan part of the slide?

MR. FAGALDE: I'm sorry, say that one more time?

CHAIR KRIKEN: The plan, the top drawing. If you could just locate the fixed wall that --

MR. FAGALDE: It would be along this side right here.

CHAIR KRIKEN: Okay.

MR. FAGALDE: It would come down along --

CHAIR KRIKEN: Come down there. So it's not on that drawing.

MR. FAGALDE: That's correct.

CHAIR KRIKEN: Okay.

MR. FAGALDE: This would be the first planter. This would be the corner of the -- these would be fixed -- these would be fixed panels, which are these fixed panels here, right here. And then it will turn and come along that service corridor.

SPEAKER: There is -- back a slide, please. Can you go back a slide, please? There is a -- sorry.

MR. FAGALDE: Go back?

SPEAKER: That one.

MR. FAGALDE: Okay.

SPEAKER: To the left side of the doors that are highlighted with a circle back there.

MR. FAGALDE: Right here?

SPEAKER: Yes. There's a storage place for panels that is, in fact, the same as a permanent wall because they're always there.

MR. FAGALDE: Correct.

SPEAKER: Even when the private use is done they still are there.

MR. FAGALDE: Correct. Correct.

SPEAKER: So we could count those as a permanent wall.

MR. FAGALDE: Correct. They are movable, though.

SPEAKER: But I don't intend to move them.

MR. FAGALDE: Correct, that's right.

The fourth component of our project is our planters. The planters which we are proposing, there are 16 of them; there are 16 custom-built and custom-designed planters. They will have different functions. When the pavilion is in private mode it's lined along the common area service corridor right here to protect the pavilion from many of the delivery trucks that come within that area. There would be two placed right at the door entrances and then on each of the corners of the pavilion here. Those are going to be used to protect the integrity of the structure when it's in private use.

BOARD MEMBER HIRSCH: So the public mode, they're all stacked up in a line like that?

MR. FAGALDE: When this is in public mode we would look to remove these planters out of the public access and stack them up alongside of the pavilion there, along the permanent wall and then hidden behind the breezeway and alongside the wall of the back service area of the restaurant.

This is a picture of one of the planters. The planters are made of diamond plate. They are powder coated the marine white to match the pavilion. As you can see on the bottom of the planters they are lifted up; they have little feet on them that lift them up about four inches. That allows for a dolly system to get underneath them and to move them easily in and out of place when the pavilion is going from public mode to private mode and back and forth.

This is just an example of why we believe these pavilions -- I mean, these planters are needed. This is a picture of one of the existing planters. This is actually a planter that is new within the last year and a half. This one has been hit, it was hit fairly hard.

Actually the truck that we have back here is a service truck, a delivery truck. These are some of the garbage cans from the Kincaid's Restaurant. They have garbage trucks that are -- garbage pickup multiple times per week, garbage pickup. Here is the service, what I'm calling



the -- referring to as the common service area. Here is one of our garbage trucks. We have garbage pickup four times per week. Another delivery truck. One of the neighbor's trucks just doing work back there. And this is one of the existing walls that's on the other side that --

BOARD MEMBER HIRSCH: That's not your wall?

MR. FAGALDE: That's the back of the retail building's wall.

BOARD MEMBER HIRSCH: Okay.

MR. FAGALDE: And then I quickly wanted to go into the number of people that we bring down to the waterfront, into the pavilion on an annual basis.

We like to consider that we bring people down to what we call a dead space that's in-between two service areas of restaurants where we activate what we consider dead space. Each year we bring about between 15,000 and 20,000 people down to the space every year. These are people that would normally not come to Jack London Square or might not likely come down to Jack London Square. On this graph it does show -- 2010 shows a high number which I'm questioning a little bit but for the most part we're between 15,000 and 20,000 people. So it certainly gets use, whether it's in the public access and also when it's in the private access mode.

Those are the four components of our project. Thank you.

BOARD MEMBER HIRSCH: What is that photograph showing?

MR. FAGALDE: This is from the northeast side.

BOARD MEMBER HIRSCH: No, no. Is that the future?

MR. FAGALDE: This is the existing doorframe. There would be no changes from this picture that we're proposing except there would be a doorframe that would be right here behind these panels.

SPEAKER: Well, Steve, there would be a door placed between that opening.

MR. FAGALDE: Excuse me, I'm sorry, there would be two glass doors that would be right in-between this doorframe that --

BOARD MEMBER HIRSCH: And where would --

MR. FAGALDE: -- when it's public access mode they would be left open.

BOARD MEMBER HIRSCH: And where does this new permanent wall occur in this photograph?

MR. FAGALDE: The permanent wall is there, it's shown. This is it here on the right. And then what we just talked about earlier, the removable panels, but we're going to consider them permanent, the two panels right over here.

BOARD MEMBER HIRSCH: And before that panel, the permanent wall was in place, was there free circulation through that space?

MR. FAGALDE: There was. But what you'll see is there is a back side of the retail building that's right here that extends probably about here. So this is -- this is the existing 40-foot permanent wall. And this is what I was referring to as the common area, the common service area.

MS. MIRAMONTES: You know, I'm just wondering, Steve, if we could turn to a plan view and we could very just clearly walk the Board through, because it's a bit of an unusual circumstance. Usually they're reviewing things that have not yet been built. In this case the proposal, a portion of it is built and some pieces have not yet been installed. And so I think it would be good for you to clearly understand what's there --

MR. FAGALDE: Sure.

MS. MIRAMONTES: -- and what is yet to come. So perhaps looking at a plan view, I'm thinking, and we can refer to the cardinal directions. I can help with that if desired.

MR. FAGALDE: Let me go back a few slides here.

MS. MIRAMONTES: I'm just wondering, can the Board, can you see the outline of the pavilion?

(Several Board Members responded at once.)

SPEAKER: Can we refer to something we have in front of us?

CHAIR KRIKEN: And the turquoise green is impossible to --

SPEAKER: Kind of like A-1.1 or -- A-1.2 or A-1.1, I don't know what the difference -- I can't tell the difference. Oh, one is private and one is public.

CHAIR KRIKEN: We are now going to start the board questions. And we'll use this graphic for (inaudible).

SPEAKER: I think the A-1.1, 1.2, 1.3 tell the story.

(Several Board Members speaking at once.)

MS. MIRAMONTES: Are there any questions as to the (inaudible)?

CHAIR KRIKEN: I think it's very difficult to understand. When you make the space as public as possible what really is there that would define the views you would have?

BOARD MEMBER HIRSCH: And the circulation.

SPEAKER: And circulation, exactly. What is the circulation pattern in this area?

CHAIR KRIKEN: And then also look at the contracts that would then close -- private function, as is quoted.

SPEAKER: Ellen, shall I wait or shall I?

MS. MIRAMONTES: (Inaudible).

SPEAKER: If looking at Sheet A-1.1. I'm thinking it might help, it gets very confusing to understand when some -- sorry, let me backtrack. What is currently authorized is the roof structure, the pavilion roof structure. The storage area is not authorized, all right, so that area is required public access.

BOARD MEMBER HIRSCH: That's square, it's a square essentially.

SPEAKER: Yes, and that happens to be approximately 255 square feet. So that was formerly open.

The wall, the new retractable wall to the west -- excuse me, to the south, my mistake. With the door in it. So that area -- are you with me?

CHAIR KRIKEN: Is the door next to the storage?

(Board members speaking amongst themselves.)

MS. MIRAMONTES: Steve, should I walk them through the --

Okay. So why don't I try to walk you through what exists and what is proposed and Steve and Adrienne and anyone else can correct me or clarify.

SPEAKER: Rather than what exists I think it would be clearer to talk about what's authorized and what is not.

MS. MIRAMONTES: Okay. So what is authorized currently. You can see there's three sets of four columns. So that is what holds the current pavilion up.

BOARD MEMBER HIRSCH: And everything else around it is open.

MS. MIRAMONTES: Everything else is open at the ground, right.

BOARD MEMBER HIRSCH: Okay.

MS. MIRAMONTES: So it's above you, the pavilion. And then you have these sets of columns.

SPEAKER: Three sets of columns, okay.

MS. MIRAMONTES: So that is what is authorized under the permit now. What has been added but does not currently have authorization, and I'll try to clearly go through these elements, are this storage area right here.

SPEAKER: That square.

MS. MIRAMONTES: That square. This door right here.

BOARD MEMBER HIRSCH: Where does that door lead to and why?

MS. MIRAMONTES: That door is one of the exits needed for the two exits for public assembly purposes. So that has been added but it's not --

SPEAKER: But basically for private use. It's needed because --

MS. MIRAMONTES: Oh, it's not there yet, okay.

SPEAKER: But it's actually, if I may, it's a 15-foot-long wall, permanent wall, behind which the moveable panels retract to be stored. So there is a 15-foot-long --

BOARD MEMBER HIRSCH: Where is that?

SPEAKER: -- permanent wall that could -- that we would like to know what, you know, does somewhat impede the flow of access to through the --

BOARD MEMBER HIRSCH: You mean that's a new wall there?

SPEAKER: It shows very clearly there on A-1.2. You can see them stacked up front of that wall.

MR. FAGALDE: If I can describe it really quickly. What we have is, which is the proposed doorframe which is not in place yet. All of these --

BOARD MEMBER HIRSCH: Pardon me. Could you step back, please.

MR. FAGALDE: All of these panels here slide into -- and the panels along the waterfront actually come around and are stacked approximately 15 feet. They would actually stack in front of that doorframe. So there would be the doorframe, a panel and then there would be two more rows of wall panels that were moved from over here.

MS. MIRAMONTES: And you can see that on A-1.2, on the next page after this page.

BOARD MEMBER HIRSCH: And the door is required because with the panels in place you would close the space?

MR. FAGALDE: Those two exits are required because when it's in private use it's considered Group A-2 occupancy. It's a public assembly place and we're required to have, for life safety, two emergency exits.

BOARD MEMBER HIRSCH: Right. And as opposed to being open now it's closed off. So the -- grid lines would be helpful. But starting at the door, those new doors, going left. Left. Those are panels in place in private use?

SPEAKER: Yes.

BOARD MEMBER HIRSCH: Okay. So that encloses the space. That's why the door is required.

MR. FAGALDE: Correct.

MS. MIRAMONTES: Right, right.

BOARD MEMBER HIRSCH: And then in public use it becomes a public, a permanent wall, essentially.

MR. FAGALDE: It wouldn't go all the way to the corner, it actually goes to, I believe it's about 15 feet.

MS. MIRAMONTES: And there is also a permanent wall that is right here that did not exist --

BOARD MEMBER HIRSCH: That does not exist now?

MS. MIRAMONTES: And is not authorized.

SPEAKER: It does exist now.

MR. FAGALDE: Correct.

MS. MIRAMONTES: But did not previously exist.

BOARD MEMBER HIRSCH: It exists but not authorized.

SPEAKER: Not authorized.

MS. MIRAMONTES: Right.

BOARD MEMBER HIRSCH: There are some distinctions here.

MS. MIRAMONTES: And that is the same case along this edge here. So you can see the panels when they're in a stacked position come to about here.

BOARD MEMBER HIRSCH: Against the permanent wall.

MS. MIRAMONTES: That you can see on that next sheet, A-1.2. So that exists but is not currently authorized.

BOARD MEMBER HIRSCH: So in 1.2 when it's public use we've essentially shut off a whole wall there, correct? That used to be -- used to be --

SPEAKER: Okay.

BOARD MEMBER HIRSCH: -- open space for public transit. So now it never will be ever again.

MS. MIRAMONTES: Well, we are asking for your input.

BOARD MEMBER HIRSCH: I mean, under the proposal.

MS. MIRAMONTES: Right. The proposal.

BOARD MEMBER HIRSCH: The north wall will be permanently closed off --

MS. MIRAMONTES: To this spot.

BOARD MEMBER HIRSCH: -- for public transit or access.

MS. MIRAMONTES: For that portion. And then the other permanent element is this door that would exist here. It has been built. The structure is new but the doors, as Steve mentioned, have not been placed within.

BOARD MEMBER HIRSCH: But those doors would only be there for private.

MS. MIRAMONTES: They would be proposed to remain all of the time.

SPEAKER: Yes.

BOARD MEMBER HIRSCH: Why?

SPEAKER: And they are not authorized.

MR. FAGALDE: They're glass, they're glass doors.

BOARD MEMBER HIRSCH: Well, right. I mean, here you're putting doors in an open space?

MR. FAGALDE: It would be left open in a parallel, it's left open in the public mode.

BOARD MEMBER HIRSCH: That doesn't make any sense.

SPEAKER: So A-1.2 shows the condition in public use.

BOARD MEMBER HIRSCH: Yeah.

SPEAKER: 1.2 is really the --

SPEAKER: And what it's showing, with the doors open is the way it would be.

BOARD MEMBER HIRSCH: Right, yeah, exactly.

MS. MIRAMONTES: That's right. Is there any more clarification needed on the proposal?

SPEAKER: I don't know if this is intentional but on A-1.2 on the permanent stacking arrangement on the north side we have one, two, three, four, five, six sets of panels that are



stacked in line with each other and then there's one very large one which just hangs out in space below that. Does that just not fit within the precise track?

MS. MIRAMONTES: Steve may be able to describe that more but it was explained to us that --

SPEAKER: Because that makes it from 15 to about 25 or 30 feet long instead of 15 feet.

MS. MIRAMONTES: Right. We did discuss that with them and they explained they were not able to -- I don't know if you want to go over the details of that.

BOARD MEMBER HIRSCH: It makes it 40 feet long, yeah.

MR. FAGALDE: With the track system it was very difficult to try and come up with a system that would allow us to make the turns on these panels to allow for that additional track there.

SPEAKER: So the permanent stack is not shorter, it's 40 feet long.

MR. FAGALDE: The permanent, the permanent stack is 40 feet long, correct.

SPEAKER: That's correct.

SPEAKER: Got it.

BOARD MEMBER HIRSCH: And the -- that's one permanent stack. And the other permanent stack is 15 feet long; is that correct?

MR. FAGALDE: Approximately 15.

SPEAKER: Mine says 10-foot-10. Is that meaningful?

BOARD MEMBER HIRSCH: Oh you're right, 10-foot-10. My eyes are not what they used to be.

SPEAKER: It is 10-foot-10, I think.

(Several people speaking at once.)

SPEAKER: It's also permanent from the top right on the --

CHAIR KRIKEN: Let's hear, let's hear other questions.

SPEAKER: I would like to hear, I would like to have someone to wind back and talk about pedestrian circulation here. Where are the pathways to the water, where are the views, where do people congregate, where do they come from, are they in that service alley at all? And then how many days per year, hours per week, weeks per month is this in private mode versus public mode?

MS. MIRAMONTES: I think, Steve, if you could go to your aerial shot in the beginning of the presentation that would be helpful to show the circulation around. So that -- the last one.

SPEAKER: The aerial.

CHAIR KRIKEN: The one before.

SPEAKER: One back.

MR. FAGALDE: I'm not sure --

MS. MIRAMONTES: Yes, that one. I can explain what -- I'll just point to this.

So you can see here in Jack London Square there is this main sort of street system so there's a lot of pedestrian movement up and down there. And then there's also the ability to come through this area, at the foot of Franklin Street, and then move through and underneath this pavilion structure out to the edge of the water. There is public access that goes around Scott's Restaurant. There's a boardwalk that was just recently reconstructed. And so the public is circulating all throughout the center and then they can move around the perimeter there.

And in terms of the number of days that they are allowed to use it, I'm going to let Adrienne Klein answer that.

MS. KLEIN: Twenty percent for private use and 80 percent public.

SPEAKER: Percent of days?

MS. KLEIN: That's 73 days of private use, 292 days of public use.

SPEAKER: So that's on a day basis. Not hours per day, not fractions of days but days?

MS. KLEIN: Good question.

BOARD MEMBER HIRSCH: Is there a, is there a minimum?

MS. MIRAMONTES: I think it's (indiscernible) the number of days.

MS. KLEIN: It is but there is a very complicated formula.

BOARD MEMBER HIRSCH: Is there a minimum and maximum number of days of private use?

MS. KLEIN: Seventy-three is the maximum number of private use days.

BOARD MEMBER HIRSCH: No, no. But how is that divided up?

MS. KLEIN: Well we did --

BOARD MEMBER HIRSCH: Could it be 73 days in a row?

MS. KLEIN: No, it could not.

BOARD MEMBER HIRSCH: All right.

MS. KLEIN: We didn't -- we wanted to spare you the complicated formula that we all love so much.

BOARD MEMBER HIRSCH:

MS. KLEIN: There are seasonal limitations and weekday/weekend limitations.

BOARD MEMBER HIRSCH: Okay, all right.

SPEAKER: And it is back to the experiential quality of the space if you're moving from the promenade to the water on a public -- sorry, private use day. Do you have the area then just between the back of Kincaid's, which we saw some lovely photographs of the service area of Kincaid's and that -- the pavilion edge. And is that -- what is the dimension, roughly, that people have to move through there?

MS. MIRAMONTES: I think you might be referring to the service area between California Canoe & Kayak and the pavilion.

SPEAKER: No.

SPEAKER: No.

SPEAKER: No.

SPEAKER: Kincaid's.

SPEAKER: It's a diagonal from east side to south side. Between the existing pavilion, we're in private mode, and Kincaid's is a structure. So what's the width of the pedestrian area?

MS. MIRAMONTES: Okay. So actually if you look at that Exhibit F that we passed out.

SPEAKER: Yes.

MS. MIRAMONTES: You can see the view corridors are described there. You can see for 20 percent of the time there would be an 18-foot-wide view corridor.

SPEAKER: Okay.

MS. MIRAMONTES: When the pavilion is enclosed. And then for the other period of time would be 34 feet wide going to those sets of columns.

SPEAKER: Okay.

MS. MIRAMONTES: You can see that. Did that answer your question?

SPEAKER: Yes.

MS. MIRAMONTES: Okay.

SPEAKER: Why is it -- because I was studying this drawing. Why is the 80 percent as narrow as it is? It seems that in public use -- this is the prior permit, right?

MS. KLEIN: Right.

SPEAKER: Or this is the permit?

MS. KLEIN: This is 1995. This drawing is from 1995.

SPEAKER: Then I guess my question is, why doesn't the 80 percent view corridor -- I mean, it clearly goes under the -- well, maybe I've answered my question.

MS. MIRAMONTES: Well that's a question --

SPEAKER: It's limited by the columns, in other words.

MS. MIRAMONTES: Yes. I don't know why that decision was made, it was the first -- I think that's for staff prior than I. Bob, do you have a memory on that? It's just that it's the unobstructed so you have that physical column.

SPEAKER: And it's about passage through, I'm not sure that this was just visual. Because here you see --

SPEAKER: Yes, right.

SPEAKER: It's suggested there are going to be boats on racks in that space.

SPEAKER: But this says "view." It says "view corridor."

(Several Board Members speaking at once.)

SPEAKER: Passage.

SPEAKER: I think it's past the stacks of kayaks --

SPEAKER: Past the stacks.

SPEAKER: -- you will have vision to the water.

SPEAKER: Yes.

SPEAKER: And that's what they're defining.

SPEAKER: Are those kayaks stacked there, on the public days?

MS. MIRAMONTES: You know, I think there was a vision that this might be used for that.

SPEAKER: This was just sort of a generic concept of how the public space could be used. The Port of Oakland sponsors events there. The adjacent occupant to the north of the pavilion is California Canoe & Kayak. And I think you might have noticed some of their kayaks stored in some of the images and this was a concept of how the pavilion could be used for showcasing their business.

SPEAKER: But it was not been used that way, we may surmise?

SPEAKER: No.

SPEAKER: Is that correct?

MR. FAGALDE: You know, I will point out and they can probably speak to it. I believe they have approval for racks to store the kayaks right here. So they are currently displayed right here and stored right here.

SPEAKER: That's the way they were shown on the old drawing too.

MS. KLEIN: While it is not relevant for the questions that we are bringing forward to you, the pavilion is used more than the allowed 73 days per year and so the ability to use the pavilion for public events is reduced accordingly.

BOARD MEMBER McCANN: I just want some clarification on public access and the public use of the space. I was looking at A-1.3, Exhibit A-1.3, which shows a layout of tables and chairs. I just want to understand more clearly, you know, what's driven that particular quantity of tables and chairs. Is it observational on part uses? I'd just like to understand how the

community is using the space and whether this proposal is the right response to that, both with usage or anticipated new uses.

MS. KLEIN: I apologize, my staff report should have perhaps given you a better indication. But that is a permit requirement --

BOARD MEMBER McCANN: Okay.

MS. KLEIN: -- that there be, I believe, 16 tables and 34 chairs spread out around the pavilion.

BOARD MEMBER McCANN: And are they used in the current configuration?

MR. FAGALDE: They're there and their usage --

BOARD MEMBER HIRSCH: Are they permanently fixed?

MR. FAGALDE: Pardon me?

BOARD MEMBER HIRSCH: Are they permanently fixed?

MR. FAGALDE: No.

SPEAKER: No.

MR. FAGALDE: They're movable. So when it goes into private mode they get placed around the perimeter of the pavilion and when it's in public mode they are placed under the pavilion in a configuration like this.

BOARD MEMBER McCANN: And so people are free to come in and move the tables and chairs around.

MR. FAGALDE: Right.

BOARD MEMBER McCANN: Move them out into the sun, whatever they want to do?

MR. FAGALDE: Correct, that's right.

BOARD MEMBER McCANN: And do you oversee that and look after the furniture?

MR. FAGALDE: We do, yes. We purchased, we purchased the furniture and we actually do lock them up at night so they don't -- because they do have a tendency to disappear.

BOARD MEMBER McCANN: By your observation is it sufficient or is there a greater demand than --

MR. FAGALDE: I think it's sufficient. I don't think there has ever been a time when they have all been used unless there has been a public festival but I think it's sufficient and I think it makes it an inviting -- it makes it an inviting space.

CHAIR KRIKEN: At some point not too far from now in time I'd like to get the audience to comment. And may I ask how many people would like to comment on this issue? Three? Okay. So that's not going to be -- we can ask more -- you can have 15 minutes apiece.

(Laughter.)

CHAIR KRIKEN: No, I'm kidding.

SPEAKER: Please.

CHAIR KRIKEN: Okay, well we can continue then.

SPEAKER: I have a question about use and you're talking about 73 days of potential privatization or partial privatization. Is that defined in terms of times of the day that would be prohibited? In other words, if it was a Saturday would I be allowed to make it private at midday for a couple hours, or not?

SPEAKER: Yes.

SPEAKER: And you'd be able to do it in the evening assuming you're serving a meal, something like that?

SPEAKER: Yes.



SPEAKER: But you probably wouldn't close it early in the day because it wouldn't be a breakfast place.

SPEAKER: It certainly could.

SPEAKER: It could?

MR. FAGALDE: We have events whether they're breakfast, lunch, lunches or dinner.

SPEAKER: Weddings, funerals, business lunches.

MR. FAGALDE: Correct, different types of --

SPEAKER: If you had the panels all set up would you attempt to schedule more than one public use in a day because they are already set up?

SPEAKER: Public? Private.

MR. FAGALDE: Quite possibly, yes, absolutely.

SPEAKER: So that might happen. Then you'd be reducing the number of days by that day but you'd be fulfilling your expectation of use by scheduling three events.

SPEAKER: It's not 73 events I don't think, Steve, it's 73 days.

SPEAKER: I know, but I'm simply suggesting if you had -- if you were limited to the number of times you could do it per day then your 73 would disappear faster.

SPEAKER: Well, I'm under the impression they close it up, it's closed.

SPEAKER: Well I know, but when it's closed and they're -- there's potential for three events to happen in one day.

SPEAKER: Right.

SPEAKER: And you'd only be counted as one day. And it wouldn't matter what time of the day you wanted to do it, he would be able to use for it regardless of what his schedule was.

SPEAKER: Correct. And just in case you're wondering, Scott's is supposed to provide its schedule to the Port, which is supposed to provide it to us, to follow this criteria.

SPEAKER: Have you seen one?

MS. KLEIN: We have.

SPEAKER: We saw the layout for when it's in public use but when it's in private use how many people do you see in that --

MR. FAGALDE: We have seen up to almost 350 people at a sit down.

BOARD MEMBER HIRSCH: Again, just to understand what -- between existing, you know, ante this proposal, existing now as the result of work you've done --

MR. FAGALDE: Correct.

BOARD MEMBER HIRSCH: And what will be in the future, referring to A-3.1 where it says "Existing Storage." That really is existing storage as a result of work you've done prior to permitting?

MR. FAGALDE: That's correct.

BOARD MEMBER HIRSCH: Okay. So in other words, it's --

SPEAKER: You can't go by existing limits.

BOARD MEMBER HIRSCH: -- presenting a fait accompli, as it were.

MR. FAGALDE: This is an after the fact.

BOARD MEMBER HIRSCH: Got it, okay. So "existing" really should have quote marks then, I guess.

SPEAKER: I'd like to follow up on that, if I might.

BOARD MEMBER HIRSCH: Pardon?

SPEAKER: I'd like to follow up on your question on that page.

BOARD MEMBER HIRSCH: Yes.

SPEAKER: On that same diagram, in fact, that same plan. Because I am --

SPEAKER: A-3.1?

SPEAKER: Yes, 3.1, the detailed plan at the top of the page. So what we have as a situation today, according -- if I understand it correctly, according to this permit document, is that there is -- as permitted there was nothing except columns all the way up to the zigzag Scott's Seafood Restaurant wall; is that correct?

SPEAKER: Yes.

SPEAKER: Nothing. And so what we're seeking here, what we're dealing with, is new doors to the left in this drawing, which will be to the south I guess, which will have panels stacked in front of those doors when it's in public use. A new storage area that is fully enclosed with a roll-up door. And then am I reading this correctly? "A segment of the breezeway that does not have a permanent wall." And so there is like an alcove with doors on either end up against the Scott's wall. And then a permanent wall that begins to the north of that. It runs further north to the planter and then it's either permanent or permanently covered running then to the east, I guess. Perhaps those doors would be covered with pads.

SPEAKER: That's correct.

SPEAKER: So there is a piece of wall, there is a segment there that has no wall in the breezeway.

SPEAKER: Right.

SPEAKER: But it does no (indiscernible).

MR. FAGALDE: It does not have a wall there because that is the rear exit from the restaurant so that would be considered a emergency exit --

SPEAKER: Egress to the restaurant.

MR. FAGALDE: -- for people coming out. So if there was a permanent wall there it would impede the emergency exiting from the restaurant.

BOARD MEMBER HIRSCH: To recap for my own head. Right now what has been permitted was a completely open pavilion with three sets of four columns.

SPEAKER: Right.

BOARD MEMBER HIRSCH: No enclosure at all, ever, except for private use.

SPEAKER: Correct.

MR. FAGALDE: The enclosure was a removable canvas wall.

BOARD MEMBER HIRSCH: And this proposal is to permanently enclose some of what was a completely open space. Okay. That kind of summarizes without going into any details.

BOARD MEMBER STRANG: It does bring up another question for me, however, and that is if one of those exits on A-3.1, the one on the north side that looks like it's mounted between two glass panels, is in fact an exit door for Scott's Restaurant itself? So what comes to my mind is if you're exiting people from that door into the private space is it's capacity then made larger --

BOARD MEMBER HIRSCH: Good point.

BOARD MEMBER STRANG: -- both for the exit doors to happen from the privatized pavilion that also serves Scott's exit. Because it would have to.

BOARD MEMBER HIRSCH: Because Scott's -- yeah, you're right, Scott's now goes through --

SPEAKER: You would have to cumulatively be -- propose more and more exits because you're exiting a whole building through it, right?

SPEAKER: Correct.

BOARD MEMBER HIRSCH: And that takes away -- right now that Scott's door just goes into completely open space.

MR. FAGALDE: We actually have a set of existing doors up on the restaurant. If you look on that same drawing where the set of doors to the left of the storage room. Right above that it says "Scott's Restaurant wall."

SPEAKER: Yes.

MR. FAGALDE: To the left of that there's a set of double doors there that is not shown on this drawing.

SPEAKER: Where are they?

MR. FAGALDE: They're just -- they would just be to the left of the end of that wall. That wall actually kicks over to the right.

SPEAKER: And is that the main entrance to the restaurant?

MR. FAGALDE: No, this is the back side of the restaurant.

SPEAKER: So those doors would have to be outside of the, quote, the existing storage A-1. And in spite of the existing exit that is drawn there would be two more doors in that? So you have three doors exiting Scott's into that breezeway?

MR. FAGALDE: No, those would exit out onto the boardwalk, which people would be able to exit left or right.

SPEAKER: Where is the boardwalk relative to that drawing?

MR. FAGALDE: It would be perpendicular to both of those walls.

SPEAKER: Are you talking about the ones out on the water side?

MR. FAGALDE: Correct.

SPEAKER: How would you get there?

MR. FAGALDE: If I was exiting the restaurant, there is a set of double doors.

SPEAKER: Yeah, I've got an existing storage facility that has been built.

MR. FAGALDE: The set of doors --

SPEAKER: It's apparently between those doors.

MR. FAGALDE: The set of doors, the existing set of doors to the restaurant is to the left of that storage room.

SPEAKER: Oh, that's a big omission, isn't it, from your drawing. Some we've got some exits that happen that don't go through the private phase.

MR. FAGALDE: That's correct. That's correct.

SPEAKER: You've got one that does go through.

MR. FAGALDE: Correct. Correct.

CHAIR KRIKEN: I'd like to ask staff quickly. Is the roof tower under consideration here with neon signing and all that?

MS. MIRAMONTES: That exists and is authorized as it exists.

BOARD MEMBER HIRSCH: Pardon? A tower?

MR. FAGALDE: I just quickly want to interrupt.

CHAIR KRIKEN: I meant, I meant the pyramidal tower that's on top of the roof.

MS. MIRAMONTES: I'm sorry.

CHAIR KRIKEN: That exists -- that's there, that's been there.

MS. MIRAMONTES: That exists today.

CHAIR KRIKEN: That's correct.

MS. MIRAMONTES: And it was built with the original structure.

MR. FAGALDE: I just want to quickly remind everyone that the challenge that we tried to address with this proposal is yes that there are three sets of four columns that hold up the structure. But the wall panel systems themselves that are existing that are permitted under the existing permit take a considerable amount of time to put up and take down, which takes from the public access of the space. So under the existing permit those canvas walls, like I mentioned, take four men between four to six hours to put up and take down. With this new panel system it takes one person approximately 20 minutes to remove those walls, so essentially it gives more time for public access.

BOARD MEMBER HIRSCH: What time does Scott's stop serving meals?

MR. FAGALDE: This is not --

BOARD MEMBER HIRSCH: At what hour?

MR. FAGALDE: This is not used for restaurant dining, this is used for private events only. So I --

BOARD MEMBER HIRSCH: I understand. At what time does everything shut down? What I'm getting at --

MR. FAGALDE: For the most part --

SPEAKER: Four to six hours is kind of a specious argument because you can do that at off hours, not cutting -- taking away from public access.

MR. FAGALDE: I think if -- I think if someone is having an event that starts at 6:00 p.m., to set it up and set up all the tables you're starting early midday.

BOARD MEMBER HIRSCH: Okay. All right.

MS. MIRAMONTES: So I'm thinking if --

BOARD MEMBER HIRSCH: Point taken.

MS. MIRAMONTES: -- unless there are more specific questions from the Board that perhaps we should move to audience comment.

BOARD MEMBER McCANN: Can I just ask one, just to follow-up on that point. I just want to understand how frequently you would anticipate resetting the planter boxes, you know. In a typical year would you say it's 30 times or?

MR. FAGALDE: They would be moved every time that the pavilion goes back and forth. And that's the reason --

BOARD MEMBER McCANN: I know it's up to 73 but I assume it might be less based on existing events because you may have, you know, it up for three days in a row or a week or something like that. Because all I'm curious about, the real question here is let's say it's 73 times. You know, getting the dolly underneath the planted tubs and resetting them and, you know, that's a lot of shifting around of planter boxes. And I'm just curious about the longevity of the plant material and, you know, with the time with that sort of frequency of moving planter boxes, you know, what sort of maintenance commitment you --

MR. FAGALDE: But they are made out of diamond plate. I think --

BOARD MEMBER McCANN: Right.

SPEAKER: But the plants aren't.

MR. FAGALDE: I think you saw the exterior of our existing restaurant where --

BOARD MEMBER McCANN: Yes.

MR. FAGALDE: We take very --

BOARD MEMBER McCANN: Good care of it.

MR. FAGALDE: -- good pride of our facilities.



BOARD MEMBER McCANN: Yes. So you would replant. I was thinking about the plant material.

MR. FAGALDE: Absolutely. We have a full-time landscape person that is on our staff.

BOARD MEMBER McCANN: Okay, okay.

CHAIR KRIKEN: Okay, maybe we should take a break on this. As we talk about (inaudible) we can continue questions but we'll sort of drive it to a set of decisions.

So let's begin with audience comments.

MS. MIRAMONTES: Steve, if you could sit down and then the public can comment from the podium.

CHAIR KRIKEN: Thank you.

MS. MIRAMONTES: So whoever would like to step up and go first and you can just run consecutively.

MR. HUO: Okay. Lee Huo with the Bay Trail Project. I've got some photos that I took this afternoon. Unfortunately, my copier went on the fritz so I don't have as many copies as I expected so you guys are going to have a share, at least some of you will.

SPEAKER: Don't forget your name, before you go on.

MR. HUO: Will do. Do I have enough? I hope so. Oh good, you guys get one each.

So once again, I'm Lee Huo with the San Francisco Bay Trail Project. Our interest in this area is, of course, the Jack London Square area. In general we consider this entirely part of the Bay Trail system.

To me the issues in this area, which I think quite a few of the Board Members have alluded to earlier today, really comes down to visual access and the public/private feel of the area and exactly how that's going to affect usage of both the trail system and the public spaces in that area.

The first photo, it's an eastward look at the site. One of the things I think I'll point out straight off is with the exception of one corner of the building, essentially from what I could tell with the way that the wall system works, you can see the tracks that essentially follows this gutter system that's actually down at the bottom. But essentially it follows the roof line.

So if you want to imagine what this would look like. Today it was open but if you want to imagine what it would look like when it's closed -- and to me that's really where the impact of this project comes out is what this will feel like when it's enclosed. I understand that there is a public/private percentage of usage but one question I think that is still somewhat unclear to me is how often the space is going to be enclosed, essentially.

If you go to the second page. The second page actually answers, I think, the question that one of the Board Members had of how much space you really have in-between there. It's a -- as you can see it's a very difficult area to work with. As was alluded to earlier by the applicant, Kincaid's actually uses that space right there as a operational area for them. There's a lot of trash cans and it looks like they spray down that area quite a lot. It's already not a relatively attractive area, in my opinion, for someone to want to go into when they're going through that space. And you can also see where the roof line kind of comes down. You can see that kind of brown gutter system I'm talking about that essentially the rail system follows the edge of that in the roof line, if you can imagine that.

On page three one of the things I wanted to point out is that it's kind of that enclosed storage area which is to the left where that kind of elevator mechanism thing is there, I don't know what that thing is called. To me this area -- one of the challenges about the space is that although it's completely open and it is public and it will be public according to the proposal 80

percent of the time, to me it does have slightly a private feel from my own personal perspective, just because of the way that the area is designed. You can see that with the storage space it kind of integrates into the Scott's Restaurant a little bit more. It kind of makes it feel a little bit private. And also you can see that the tile on the interior is a little different, which kind of identifies it both as a different space but also identifies it potentially as a different private space.

Although the building itself actually on those pyramidal towers you were referring to, Chair Kriken, says public pavilion on it, it's roughly probably 25 to 30 feet up above the trail user's head. Most people probably aren't going to look at that.

So the question to me is, how do you make the space more inviting? Because if you're a brave person walking down this area and you're not from the area you might be brave enough to walk in and sit down or ask someone, can I sit down here and use this space. But if you are not a brave person you might walk by and feel that it's somewhat private and you may not just -- you may just decide to keep going and not use that space because you feel like it's part of that facility over there. So how do you assign this area or how do you design this area to kind of make it feel more inviting to the public when it's in public mode?

BOARD MEMBER HIRSCH: Let me ask a question.

MR. HUO: Sure.

SPEAKER: What you're alluding to, the wall by the lift mechanism.

MR. HUO: Yes.

BOARD MEMBER HIRSCH: That is the wall that would become -- that has been installed to become the permanent wall behind which --

MR. HUO: Actually that wall -- from what I understand, that wall is the storage area that has been installed that connects --

BOARD MEMBER HIRSCH: Okay.

MR. HUO: As a walkway to the restaurant itself.

BOARD MEMBER HIRSCH: That is the storage area walkway.

MR. HUO: Yeah. If you look to the right of that towards the back, that's the permanent wall that you see there.

BOARD MEMBER HIRSCH: Way back, you're right.

SPEAKER: That's the 40 foot wall.

MR. HUO: Way back, yeah.

BOARD MEMBER HIRSCH: Okay.

MR. HUO: And if you -- so if you go to the next page, on page four you kind of get a southwestern shot. And to me, with the type of visual access that you have as it is currently constructed, it's actually a fairly nice space. You can actually see through it, it kind of looks inviting, it doesn't really impact the area very much. But my question is, what does this look like if you follow the roof line and you enclose the whole space? How does that feel? Do you have visual impacts? Can you even see the trail, the fact that there is a trail back there that you can access?

And the next page is just a somewhat similar shot from a different angle.

The sixth page has a shot of one of the areas that the doors are stored at so you have a sense of what those panels look like.

And the last page, I just want to give you a different perspective from the other side of Scott's where there's a boardwalk and how different it feels to me in terms of the visual access and how open it feels and it actually invites a trail user to want to go down there. It says that

there is a space here that I can go and explore. Whereas on the other side of -- to me, if you have a wall there I am not sure you necessarily have that.

So I just wanted to point these particular issues out and hope that the Board has the opportunity to look at this and to be able to provide some suggestions and solve these issues. Thank you.

CHAIR KRIKEN: Thank you.

MR. MILLER: I need some water.

CHAIR KRIKEN: Plenty of water.

MR. MILLER: My name is Keith Miller; I am the owner of California Canoe & Kayak, the immediate neighbor. I have a whole lot of jumbled up feelings right now and so perhaps you can ask me a lot of questions. I know exactly how this thing came about. I witnessed the whole thing over a number of years.

Twenty years ago I testified in front of the Commissioners. I was asked by Ray Gallagher the owner of Scott's personally and also the Port of Oakland to come to the BCDC meeting and testify in favor of this project. And as Mr. Fagalde pointed out, it was a -- to me it seemed like a perfect 80/20 private/public partnership at that time.

And it worked. When the tent walls were up a lot of people showed up and -- I'm a business person. California Canoe & Kayak is in its forty-second year now, that's how long we've been around. A lot of small businesses don't make it that long, as you well know. And every time there's an event in the pavilion we benefit. People come by, people see us, people pick up a flyer from outside the -- outside our store.

So I over the years consider myself a great neighbor of theirs and vice versa. I don't quite know where I stand now because what I witnessed a few years ago is what appeared to me to be basically Scott's annexation of this space and so we brought this to BCDC's attention, what was going on. Ray Gallagher is a wonderful poster child for "build it first ask forgiveness later" and I have a problem with that. I mean, here is a guy that can follow the rules if he chooses, pay permit fees, he's got all the ability to do everything right and he did what he did.

So I have been coached tonight to just talk about the project itself. It's very difficult for me to do that based on what I've observed, so I'll try to do that.

In terms of the walls. There is no doubt the tent walls over the years aged. I don't know now many times those walls were ever replaced. I'd love to know that because I don't know if they were ever replaced. So if the tent walls were used for 20 years that's a pretty good return on investment. Maybe they should have just bought more tent walls.

On the rolling system. When Ray showed me the blueprints of the whole thing I assumed it was all permitted up and legal. And walls -- rolling walls, in my opinion, look better than tent walls. I am not particularly keen on the color combination they chose. That's you guys's business. I mean, you're Design and Review, I'm just a kayak guy. I wish that perhaps they had chosen a better color combination than white and red.

SPEAKER: White and red?

MR. MILLER: That's what they are, white on top and red on the bottom.

In my opinion, when those walls are up it looks like a gymnasium. It looks like a cross-fit place. It doesn't really blend in with all the other buildings at Jack London Square at all. Of course, you could also look at Jack London Square as a whole and say, hey, this is just a mishmash of stuff and you wouldn't be too far wrong. Or you'd be right so why not put a gymnasium in there? But once again, that's Design and Review, that's not me.

I do know that a 40 foot wall behind my store is pretty long. I walked back there today. I am not an engineer. I don't know anything about Kalwall, don't know how it works, don't know how you do it. I looked at all the tracks. It seemed to be a pretty smart system. It seems to me they could have made it a lot shorter on the north side by about three panels. The panels on the one side, wherever it is, are stacked five deep where that other door is going to be. They're also stacked --

SPEAKER: On the wall.

MR. MILLER: Yeah. Excuse me. Yeah, they're five deep right here. They are also -- someone pointed out there's two of them that stick out real far and the rest of them are scrunched down. There's basically nine panels here that if you knock them back that wall would not go out however long it is but it would go out just to the edge of my building here. It would go out to here instead of out to about here.

SPEAKER: Right.

MR. MILLER: Now, I'm assuming that this Kalwall is so smart to be able to have figured this out. They could have figured out how to turn them into here. So maybe Scott's should be asked to tear down what they built without a permit and roll those walls into there to store them. I don't know, I don't have the answer. But I do know if they can stack them five deep here there's enough room here to stack them five deep there. That's enough for 15 panels and you only need nine right here to go away to bring this permanent wall back to here instead of sticking way out here. So those are my comments on the walls.

On the -- what was the other thing? Oh, the planters. The planters, oh my God. The planters don't work for me to be stacked behind in that north area at all. Someone brought that up. It's not going to work. I don't know but I don't have any knowledge of anyone ever in the last 20 years driving a truck into the tent when it was up. There is no history of that that I'm aware of. Now maybe somebody did drive into the tent.

I know a picture was shown of a planter box being crushed. Guess who crushed that planter box? I did. I killed your planter box. I did it with my pickup truck because someone had moved it out in the middle of something when I was backing up and I hit the darned thing. And it wasn't even close to one of the walls at the time, it was sitting out there loose. And if you see the pictures -- if you see an open picture now, there's a number of these different planter boxes around sitting around loose. One of which contains a huge tree that currently blocks the access view, the 50, whatever -- the 38 foot or the 50 --

SPEAKER: Thirty-four.

MR. MILLER: The 34-foot view. That really shouldn't be there. So I owe you for a planter box, Steve. Or not, it shouldn't have been there.

(Laughter.)

MR. MILLER: These planter boxes are heavy. I've seen them, they were placed around there at one time. When they were in place around the pavilion nobody walked through it, they all walked around it, every last one of them. They all were built with holes in the feet when they were placed, which leads me to believe that they were designed to permanently bolt down into the pavers. I blew the whistle on that really quick because I didn't want to see that happen, I didn't want to see those go in public space so they got removed, fortunately.

They weigh a ton. There's no way you're going to get a dolly under there and move those things easily unless you've got a really big dolly, you're going to need a forklift. Where they've got them stored is along the wall on that side. There's 16 feet between the wall of the pavilion and the wall of my building.



Oh, by the way, there was a picture shown of the back of my building that looked pretty lousy, some work needed to be done. That wear and tear was because of Scott's laundry trucks, laundry, their push trucks with their towels. They're the ones that ground into the back of Water Street One there where my building is.

So the planters are going to have to be forklifted and placed every time to move those back and store them. They aren't needed. They aren't needed to protect anything because no one is going to run into the walls, no one ran into the tent.

Let's see. Anybody have any questions of me? Yeah.

CHAIR KRIKEN: I do. I'm looking at this aerial photo called Exhibit A-2 in our packet here, I guess it is. And along that sort of oblique wall that goes off at an angle to the north away from -- the northeast, I guess. It's away from where the planters and the stacked panels will be. On your building I see, it looks like stacked kayaks and maybe canoes. What goes on in that space right there, this right here? What do you use that space for?

MR. MILLER: That's used for storage. That's used for storage. When I appeared before the BCDC twenty-something years ago the Port allowed me to put two racks out there for kayak storage. And I remember this, I'll never forget this as long as I'm still in this business. Somebody made the comment, "Well maybe those racks should go away." And staff -- one of the Commissioners said, maybe those kayak racks should go away because they're a nuisance or they're blocking view. And the staff said, no, no, no, we want those kayaks there. We want them, we want people to see how colorful they are. We want them to be on site. So staff at that time, which is different than today's staff, really liked the racks and the racks have been there ever since. In various configurations but they've been there. I had to reduce one of them. I overstepped my bounds last year and had another rack out there and I was encouraged to removed it, so I did.

CHAIR KRIKEN: So is it just kayak racks or is there anything else that --

MR. MILLER: Just kayak racks.

CHAIR KRIKEN: -- goes in that area?

MR. MILLER: Just kayak racks. Remember, we were invited to come down to the Port in 1993 by the Alameda County Economic Development Commission because we provide something that no one else does and that's public access to the water, so we are wanted there. In fact, there was a lawsuit that the States Lands Commission filed, I think, for this development to go on. Somebody like us doesn't have to be -- somebody like us has to be down there.

CHAIR KRIKEN: Okay, thank you.

MR. MILLER: Against my back -- another reason not to have those planters stored back there is I have a -- I found this in my old files dated August 4, 1998. I didn't bring copies because I figure you guys have enough paperwork. But here is a picture of a row of kayaks against the back of my building that I have been permitted to put there. I have never put them there but they would stick out about 20 inches. The planter boxes would stick out I think 16 inches. That's two feet in a 16-foot area. Now we've got 14 feet left.

BOARD MEMBER HIRSCH: It's three feet, actually.

MR. MILLER: Three feet, I'm sorry.

(Laughter.)

MR. MILLER: And then you've got vehicles making deliveries back in there. It's also Scott's main --

SPEAKER: (Indiscernible) kayaks.

MR. MILLER: Yeah, it's Scott's main employee entrance and we have access in our back warehouse with rental gear going in and out. There is just no room for planter boxes along the back, along the back area, in my opinion.

MS. MIRAMONTES: I'm just thinking you might want to look at the A.0.2. That defines -- that shows the extent of the required public access. So you can see that. And then also if you look at Exhibit F you can see kayak storage was envisioned to occur there.

I think we should probably wrap up the public comment.

MR. MILLER: Let me wrap up real quick.

MS. MIRAMONTES: Yes.

MR. MILLER: The other argument was to protect -- protect the -- the planters were to protect the building. And like I say, delivery trucks have to be out of there by 11 a.m. After that point in time no vehicles are supposed to be in there at all except people picking up kayaks that they purchase from my store; I have a special permit to have that. Basically, BCDC has a VAP plan for that whole area, a Vehicle Access Plan. So there shouldn't be any problem with vehicles hitting the walls ever when an event is happening because they're not supposed to be there in the first place.

In fact, the biggest problem with vehicles back in there are Scott's own vehicles. Behind the 40-foot wall right now on any given morning, if anyone wanted to come down there and visit, you'll find not a public pavilion with the walls open but you'll find Scott's parking garage.

So I think I've probably said enough. I could go on for a long time. I'd like to see the pavilion continue being used. I have nothing against Ray and Steve and Scott's making a lot of money, it brings a lot of people past, I like that, but I also want to see the public put back into it.

CHAIR KRIKEN: Thank you.

MR. MILLER: You're welcome.

BOARD MEMBER HIRSCH: Thank you.

MS. THRELFALL: Good evening. I'm Sandy Threlfall, I am the Executive Director of Waterfront Action and I share Keith's history.

I am embarrassed to say, with egg on my face, that I wrote the letter to BCDC and testified in front of the Commission saying a public pavilion would be a good thing. Because the mantra for Waterfront Action is, once you get people to the water they come back. But they need to be able to see it, they need to be able to believe that it's public. There are a number of instances that defy that with this, this tragic development. The hard part --

As I said, I was one of the supporters 20 years ago. Jack London Square for many years was semi-abandoned so we were seeing this as an opportunity to invite people not only to walk the Bay Trail, which is in itself incredible, but use the kayaks. I mean, talk about a public trust business, Tidelands Trust absolutely. Getting people on the water. This is all Tidelands Trust land. This is supposed to belong to all of us. It's not supposed to be privatized. And I understand State Lands Commission decided that hotels are public trust uses and restaurants are public trust uses. But when restaurants create barriers without permits it violates the public trust, the -- our public trust.

We need signage. We need there to be a clear notice that says, this is public, come in, use it, relax. You've been walking for five miles, get out your backpacks and your water bottle and your banana, sit down and see what an incredible view this is.

The other absolute insult is that this construction, this wall, has absolutely wiped out the view from my favorite restaurant, Bocanova. I used to be able to see San Francisco. I used to be able to see water. I can only see this walled pavilion and that's when the walls aren't up. When

the walls are up of course I can't see it. But to me, that's defilement of what was supposed to be a public area. And when you start encroaching on other businesses' view corridor, maybe they should get a percentage of whatever you're making when you're doing this. But with permanent walls it's not going to work that way.

We went to the City, the City wasn't able to -- wasn't willing to enforce. BCDC wasn't willing to enforce. I mean, they have been allowed to continue to have events in this illegal facility for over a year. I don't understand that.

So signage, take all the walls down. Bring it back to what it was because that's what we voted for with our letters and our support in front of the Commission. Thank you.

BOARD MEMBER HIRSCH: Thank you.

CHAIR KRIKEN: Thank you.

Does that conclude the audience comments? No one else?

Okay. Then what we are going to do now is talk among ourselves, probably ask questions and try to come to some resolution of a proper approach.

SPEAKER: John.

CHAIR KRIKEN: Who would like to begin?

BOARD MEMBER SMILEY: I'd like to ask a question of staff, if I might.

CHAIR KRIKEN: Mm-hmm.

BOARD MEMBER SMILEY: Thank you for calling attention to this public access diagram again. In this area, relative to the question I asked about what happens where the kayaks are stacked. I notice that where the kayaks are stacked and all backed in that slot it's all white, there is no public access requirement. Is there any limitation on what can go there? I mean, can it be filled with dumpsters, can it be filled with -- according to the permit is it pretty wide open what can happen in that white area that's essentially all the service area? It's not in public access or are there limitations on what can happen?

MS. MIRAMONTES: Well, I think we would have to do a real careful reading of the permit to know. But, obviously, dumpsters wouldn't be currently authorized in that area. It is within BCDC jurisdiction. So what is -- whatever is authorized could occur there.

I don't know how specific the authorization is in terms of, you know, exactly kayak storage and all of that but things such as dumpsters and that wouldn't have been authorized in that location.

SPEAKER: Keith just said that he put one extra kayak rack and was asked to remove it so there must be some very specific thing on what you can do in that space.

SPEAKER: Right. I mean, because it's basically a service area.

SPEAKER: Because even a kayak rack, which is for public --

BOARD MEMBER SMILEY: It is a service area. So I guess I am just curious. And it's not -- it's currently delineated as being not in the public access area. So a variety of service uses I would think are allowed. Maybe not storing dumpsters but a whole variety of -- for instance, could you have a whole series of trucks parked in there for three days? Or is that something --

MS. MIRAMONTES: Well, that's where we'd have to look to the Vehicle Access Plan.

BOARD MEMBER HIRSCH: The VAP.

MS. MIRAMONTES: And that is very detailed. And I'm sorry, I can't answer the detail on that.

MR. MILLER: I can speak to that if you want. I know it backwards and forwards. No, you can't. Basically that's a shared vehicular access for service vehicles. Our vehicles, it's not when we're working. We work together very, very well. Scott's employees and my employees

work together extremely well making sure that place gets -- no one is parked there for a long time and so on and so forth.

SPEAKER: Right. So there is a good neighbor policy.

MR. MILLER: Yes.

SPEAKER: But the question is, is there a limitation that says, good neighbors, you can park a bunch of vehicles back there?

MR. MILLER: Well no. No, we can't park there long-term, the Vehicle Access Plan precludes that.

SPEAKER: And by 11 a.m. you can't use that access?

MR. MILLER: Correct.

BOARD MEMBER HIRSCH: Well, if I may start this then. I am not quite sure why we're looking at this because I really -- I won't say offended but I am annoyed that we're presented with a fait accompli and it violates, you know, the public access and view corridor, including even what seems innocuous, that doorframe. I mean, right there that view corridor is completely lost by that doorframe that has been put up, which will be even worse with two doors, be they glass or not, that would remain open. So imagine another three foot blockage there.

I don't know how this can be permitted, you know. The permanent wall blocks visual and circulation access. There is a problem that has been created. You have to have doors because you are now enclosing something permanently, essentially. So I don't know, you know, what we're going to say about this, except that.

CHAIR KRIKEN: I'd like to propose maybe two approaches. One is visual access and talk about what -- how we can gain the greatest, you know, recovery of lost visual access. And then the other is a very interesting question which is, what strategies can bring back or strengthen the sense of this being public and not something that's quickly privatized for whatever it is, 20 percent of the -- I forgot the ratio.

But anyway, I think those are two -- because even if it has visual access, if it still doesn't feel public, it doesn't -- you don't feel comfortable. I was thinking about all the experiments now about cafés in downtown San Francisco on sidewalks. There is a -- and then we're also taking out parking spaces and trying to bring them into the public realm by making them seating areas and so forth. There could be some, you know, some kind of design idea there that could begin to rebuild this space.

BOARD MEMBER HIRSCH: Well I would suggest taking down these columns that have been put in. They are only there because doors are going to be permanently mounted on them. If there is anything that really blocks the view corridor, there it is.

BOARD MEMBER ALSCHULER: You know, these five areas they have asked us to look at do kind of fit into --

BOARD MEMBER HIRSCH: I'm sorry?

BOARD MEMBER ALSCHULER: I think we went through these questions that were raised to us. I have a feeling our answers would, you know, establish, John, what needs to be done to protect the view corridors and the access.

I mean, I for one, starting out with A, B and C under the first one, I actually think the Board -- I would recommend the Board take -- we're doing discussion, I guess. I would put forward for discussion that under A, B and C, you know, A is about the permanent doorway entrance that you were just talking about.



And I think that we are asked whether that's inconsistent with the existing public access requirements. I think the answer is, yes. And I just wonder on that one, if it took four hours for -- four people, you know, four to six hours to put it up and take it down before and now it's 20 minutes, maybe there needs to be found a way that that frame can be put in so it takes another hour or two hours to put something up and connect through the system. I don't think it's actually essential that it go down to 20 minutes. And that's the only thing that was offered to us that was improving the public access was the speed of the coming up and down.

Which I can understand that, you know, that seems a great benefit but, you know, maybe there just has to be found a way that that isn't there permanently. Because I think it's clear. And I am so glad we got some photos. I really appreciate the people who brought the photos and showed them because otherwise I don't see how we could have -- I don't think we had the material to make this decision tonight, but now we do.

BOARD MEMBER HIRSCH: The graphics were not the best, I'm afraid.

BOARD MEMBER ALSCHULER: Impossible. So, I mean, that's the first one. The second one asked whether the fixed panel, the 40 feet is too long.

SPEAKER: Yes.

BOARD MEMBER ALSCHULER: And I would suggest that 40 feet is too long.

BOARD MEMBER HIRSCH: By about 40 feet.

BOARD MEMBER ALSCHULER: I think the absolute maximum would be something that lines with the edge of the, of the, you know, the kayak wall. And whatever it is that is the connection between these two, there is no way a permanent wall should be there. And in fact it looks like there's only those extra panels that have been left single, not stacked. That those, if some way -- they turn the corner for the panels on three other, three or four other places. So it seems the answer is -- to me -- and then that fits in with what you're talking about needs to be done.

CHAIR KRIKEN: You want to take it one at a time?

SPEAKER: Yeah. I don't know.

SPEAKER: I mean, I agree with that.

SPEAKER: I agree with the third one too.

SPEAKER: I agree with cutting back to the corner, I think that's right because -- and just elaborating on that for a moment. It seems to me that -- I mean, notwithstanding the fact that this was done without a permit and all that, just thinking about it as a design question.

SPEAKER: Right.

BOARD MEMBER SMILEY: The reason I was curious about those service areas and what goes on back there is that it seems to me that if we had a pavilion like this, if we were designing a space like that, we might do something that screened the service area anyway. So to a certain extent those panels are doing a good job for the public pavilion. The question is, how far should they come out? And I would -- my sense is, is that they -- in my mind, they probably help make the public pavilion a better space for the public when they're in it because you've got all these truck things going on back here and who knows what else.

SPEAKER: Visual and noise levels --

SPEAKER: Which we don't know what's back there. But we often think about screening service areas from public spaces. And it isn't in the view corridor, it isn't even in the permitted view corridor.

CHAIR KRIKEN: Right.

BOARD MEMBER SMILEY: So it doesn't seem to be -- whereas the door is and I agree with the door, I think that's a problem. But then it's a question of how far it should come out and I think, Karen, your observation that it might align with that wall. Because the wall does align with the view because it slices through the pavilion.

SPEAKER: Actually I hope it's still possible to adjust that because I think that's unreasonable. I mean, I remember, I actually was here when we reviewed this last time. I'm starting to remember the discussion, although that was many years ago. But I think that, you know, the kayaks were very important to -- to that sense of public and fun and excitement and I remember our being in favor of seeing those. You know, I think it's very important, that connection between the kayaks and the water, that edge.

CHAIR KRIKEN: So would there be a consensus here that the visual access be a principle, a primary principle of whatever actions are taken? And that that -- and the next step would be that it might allow or permit the storage of those walls to be against the alley or service space, if that is the strategy used to privatize it for special parties.

BOARD MEMBER HIRSCH: On the west side that storage there also blocks visual and circulation access. The storage that's adjacent. The so-called existing storage area.

SPEAKER: That is public access.

BOARD MEMBER HIRSCH: Then this public access has been blocked off.

CHAIR KRIKEN: It's public access but it's not necessarily visual access to the water.

BOARD MEMBER McCANN: John, I think that's a good way to frame it, the visual access. I think the principle has got to be to have panels or objects that could impede the visual access positioned along the least-sensitive area to the public, which is the western wall, you know, approaching the corner.

If I can just comment on the second point you made, the sense of publicness. To me that is a real, that's a real concern when you look at how this is now playing out. Because when people are -- when this is in event mode and closed in, you know, it will be further reinforced by this neat line of planters along the edge and the corners and so on. Then when it opens up, you know, you see the concentration over here and then this sort of neat layout of tables and chairs. It seems to me like everything is being done to sort of reinforce this sense of privateness.

You know, if I had my preferences, you know, I would say, you know, rethink some of these elements. It could be furniture, it could be planting, it could be other things, umbrella -- you know, other -- the kayaks. So think about how the space can start to sort of blend and morph with the public areas around it.

CHAIR KRIKEN: Right.

BOARD MEMBER McCANN: It just seems like this is leading down a path of inferring privateness.

CHAIR KRIKEN: One could imagine using furniture to sort of capture people and draw them under that roof instead of being inside or outside.

BOARD MEMBER McCANN: Right.

BOARD MEMBER HIRSCH: Well there is another issue, though even in the public -- when it's public and even if the wall is cut back you still have doors stacked up that are facing a public space. Then the public will be facing stored doors, which to me does not seem a very inviting situation.

CHAIR KRIKEN: Which --

SPEAKER: A-1.2.

SPEAKER: It wasn't even translated because the wall is shortened and the door-stacking area is also shortened.

BOARD MEMBER HIRSCH: Even if it's shortened.

SPEAKER: (Overlapping).

BOARD MEMBER HIRSCH: Even if it's shortened you're looking, your people sitting in those corner tables, they're looking against a wall of hanging doors. Which is a private thing.

SPEAKER: I'm sorry, are you talking about the doors that are stacked on the western wall or on the northern wall?

SPEAKER: Which stack?

BOARD MEMBER HIRSCH: The walls that are stacked on the northern wall. They stack into a public space, essentially.

SPEAKER: They do block off some of the area.

CHAIR KRIKEN: I don't think we are going to be able to nail every detail down here.

BOARD MEMBER HIRSCH: No, but that's --

CHAIR KRIKEN: We can say --

BOARD MEMBER HIRSCH: -- a question of private versus public. I mean, somebody has created a permanent wall there in order to store doors and then coming to us to, in effect bless it, I guess. I don't know what else we can do besides saying it doesn't belong there.

CHAIR KRIKEN: Well that's what I think we were saying is that it doesn't belong there.

BOARD MEMBER HIRSCH: Regardless of what the length is.

BOARD MEMBER SMILEY: Well, I guess I was suggesting that on the northern wall that it might be sort of fortuitous that that has happened because it's serving as a screen to a service area that we would normally want to do anyway.

BOARD MEMBER HIRSCH: Right.

SPEAKER: Between a public space and a service area.

BOARD MEMBER HIRSCH: Right.

SPEAKER: So now it may not -- it may be a kind of a curse because if I'm in that side I -- yes, it's true, I'm looking at stacked doors as opposed to a nice green wall or something like that.

BOARD MEMBER HIRSCH: As opposed to, let's say, a wall that is pleasing visually, shall we say. Because I don't know what stacked doors look like. But if they're kind of a hanging thing there, I don't know.

SPEAKER: Maybe the question would be more -- there is a fundamental question of whether we should close that wall off at all and my sense is this is the lesser of two evils. I'd rather have it closed because otherwise I'm sitting next to a bunch of service trucks.

BOARD MEMBER HIRSCH: Well they're not there. They're not there after 11 o'clock.

SPEAKER: After 11 in the morning they're not there.

SPEAKER: That's a -- but it's a service alley. I mean, you know.

SPEAKER: After 11 a.m.

SPEAKER: Yeah. I mean, it's still a service alley and I bet it's got --

SPEAKER: We saw a picture of kayaks potentially being hung or stacked there.

SPEAKER: That's too narrow, the kayaks would be damaged.

SPEAKER: You can see it in this picture, the third.

BOARD MEMBER HIRSCH: Yeah, you might be looking at kayaks hanging on the wall.

(Several Board Members speaking at once.)

SPEAKER: (Overlapping) his kayaks right there because it's too narrow.

SPEAKER: This picture here I think actually does indicate that it's pretty problematic though because it shows that it's a pretty dark corner back in there. And that would be nice if that could be --

SPEAKER: Eliminated.

SPEAKER: If that could be fixed somehow.

SPEAKER: Very dark.

SPEAKER: But the notion of the screen doesn't bother me so much because of what's on the other side of it.

SPEAKER: What kind of a question --

SPEAKER: One set of panels will be translucent.

BOARD MEMBER STRANG: Without making a, you know, a judgment on whether open or screened is best for those walls. I mean, that wall, I mean, there could be a different wall panel system. You know, like a bifold or an accordion door that could be stacked perpendicular, you know, in smaller pieces perpendicular. And so I just wonder if it's worth, you know, it might be worth looking at other ways of arranging it. And I don't want to say one way is better than another but it seems like if you wanted to make it more transparent you could and still have (indiscernible) along there.

And then I'll just add, as far as the planters go, it seems like they are kind of a barrier and I'm sure they're incredibly heavy. I don't think it's practical to assume that they are going to be moved around, you know, a couple of times a week or whatever it might be. So, you know, I think there is an incentive there to leave the planters in their spread-out arrangement and then it does form kind of a barrier. So I just sort of raise that as a matter of practicality. Once you water those planters they must weigh many hundreds of pounds each. So there's a lot of time involved in moving those planters, probably as much time as was involved in setting the walls.

SPEAKER: More time.

VICE CHAIR THOMPSON: Yes, I have a question for staff and we have two staffers here today. And that is, I am -- I listened to the presentation, I was informed that there is a storage building being proposed between the pavilion and Scott's and it's shown on A-1.2. And when I get to A-2.1 I'm laden with an ambivalence that I cannot possibly solve on my own so I'm going to ask you guys.

When you see an opening that's described as an opening for event-hosting BV, which is a reference to an old drawing, I guess. And it shows an opening with fake -- wood fake curtains shown as if it were a stage for Johnny Carson to come out. And on the plan it's called a temporary roll-up divider between the pavilion and the storage.

Well there was a hell of a lot of space back there that could have been used to store panels and partitions where they would be in no one's way. Out of the way entirely, not imposing itself on the public view at all. But instead we have a fake wood curtain divider between something that's called an event-hosting space and something that's called on another page, storage. I guess I'm doubting that it's a storage. I guess I'm believing it's probably an opening for an event-hosting procedure of some sort, even with the fancy wood curtains and the roll-up door.

I can't imagine why we aren't using that to store our panels in, then the whole problem disappears. I think everybody would -- If they could store all the panels back in a place where it wasn't in the view corridor at all that nobody would have a problem with the whole system.

BOARD MEMBER HIRSCH: Could you call that out in a plan?



SPEAKER: But as it stands now we have problems with the system because it's always in the way. Why it's in the way, I don't know.

MS. MIRAMONTES: So I am not sure I follow your exact question.

SPEAKER: What do you think that space is?

MS. MIRAMONTES: Well, I think it is used for storage. And then I would ask others that are familiar with what goes on there. I haven't seen it in action.

SPEAKER: What would event-hosting be in your lay position relative to the (inaudible)?

MS. MIRAMONTES: I think this is best for the project proponent and perhaps the neighbors to answer, I don't know how this curtained area is used. Unless other BCDC staff -- have you seen it in use?

MR. McCREA: The way it's typically used -- Brad McCrea, the Director of the Regulatory Program. The way it is used, typically used, is risers, as Steve Fagalde mentioned, are set up in front of the doors there, the curtains there. A microphone or a podium is set on top of the risers. Tables in a banquet setting, for example it could be a luncheon, are set out in the enclosed area. And then presentations are made or slide shows are given. It's a function both for business luncheons or for weddings, right? People stand up and make toasts.

VICE CHAIR THOMPSON: It is, in terms of the morality of all the spaces we're shown, there is one that has no morality, it is an expansion of the restaurant building, isn't it? I mean, it's not taking away a pavilion, it's adding a space to the restaurant building, period.

SPEAKER: Yes.

SPEAKER: It is.

VICE CHAIR THOMPSON: What you use it for is up to you but that's what it is.

MS. MIRAMONTES: Using public access for another purpose.

SPEAKER: Absolutely. It's privatizing it entirely.

SPEAKER: I was just going to say, it's not -- that space is not used (inaudible).

SPEAKER: Right. And never will be, probably.

SPEAKER: (Inaudible)?

MR. FAGALDE: That space is used only for equipment that's used in the public design. There is absolutely no storage in there for anything for the restaurant. It is never used for any of the actual events, it's purely used for storage of tables, chairs, the risers and these are used within the pavilion.

VICE CHAIR THOMPSON: But as you've defined it, tables, chairs and risers for use in the privatized use of the public pavilion makes it Scott's, from my stupid point of view it's just Scott's.

SPEAKER: I think you hit the nail on the head. It's totally privatized. Something that's in orange on this map.

SPEAKER: You've got it.

BOARD MEMBER PELLEGRINI: I had one, one quick comment maybe I could make.

CHAIR KRIKEN: Because right now I think we can ask --

BOARD MEMBER PELLEGRINI: John, can I make a quick comment?

SPEAKER: Stefan.

CHAIR KRIKEN: Stefan.

BOARD MEMBER PELLEGRINI: Can I make a quick comment?

CHAIR KRIKEN: Of course.

BOARD MEMBER PELLEGRINI: I think it's -- I'm finding it very difficult to make a decision about whether or not Scott's should be allowed to encroach on this public space. I think

the easy answer is, no. But it is difficult to understand the decision-making process I think that would drive that.

What I am struck by when I go to Jack London now is that there is a great deal of transparency that wasn't there before. Restaurants like Bocanova and the place across the way that starts with an H, Haven. That you can now walk along the waterfront and you can see clearly into buildings, the activities that are going on in the interior.

So in my view the idea that you would put up a retractable wall system that is almost entirely translucent, that you actually can't -- you don't appear to have any visual connection to the interior except for the areas where there is the clear tempered glass, is a little bit myopic and kind of outdated. Because I would imagine that at the time when the idea of a public event in Jack London Square could be behind this canvas wall that you wouldn't be able to see in and it seems that everyone else in the area is actually very encouraging of this transparency.

So I would almost argue that if there is going to be a greater amount of enclosure that's allowed, it should be way more transparent. And that the shift from a canvas wall to a translucent wall that doesn't allow that free -- you know, there is this great tradition of glass pavilions, 19th Century crystal palaces where there's huge visual access and it seems to be a huge mistake to allow this kind of improvement. To actually not improve upon the visual access that we have when it's enclosed. And then I would just vote for greater transparency without making a decision about whether or not Scott's should be allowed to encroach upon this public space for private events.

CHAIR KRIKEN: I'm thinking the hour is getting late and we have one more tonight.

BOARD MEMBER HIRSCH: One more thing. I've got here a visual for the Board. That doorway -- door has to -- that frame has to go. I mean, when those doors are open you've got an encroachment both on visual access and on public circulation access.

MS. MIRAMONTES: Which doorway are you referencing? Is that --

SPEAKER: On sheet A-3.1.

MS. MIRAMONTES: -- on the east side?

SPEAKER: The large door plan with the doors open.

SPEAKER: Lower left with doors.

CHAIR KRIKEN: You know, I think we put a sort of stated position and then there's a lot of nuance to it but we said we want to view that. And if there's to be panels they need to be corralled in some ways that doesn't prevent that from happening, the views from happening. And that there has to be -- and there has to be more consideration of cues for signals that this is public. Signage or it could be the way you lay out the furniture when it's -- it's something.

But I think -- I think what I'd like to do is close this item with these general -- this is a reaction that broadly -- and see what they can come up with in response to these -- the applicant -- what the applicant can come up with in response to these concerns.

MS. MIRAMONTES: I would like to try to summarize some of your main points.

CHAIR KRIKEN: Okay.

MS. MIRAMONTES: And see if it seems correct to you.

So what I heard is a pretty clear consensus on removing the permanent door on the east side. Does that seem accurate?

SPEAKER: Yes.

MS. MIRAMONTES: And then on the north --

BOARD MEMBER HIRSCH: And the doorframe as well.

MS. MIRAMONTES: And the doorframe.

On the north side there may have been some varieties of opinion ranging from remove all permanent structures on the north to some distance up to the point where the California Canoe & Kayak wall turns. That maybe it's a benefit to have a wall. So there I think you were not all in complete agreement on that. Some people said yes, there could be a benefit but make it shorter; some people said, no, completely open it up. Does that seem correct?

(Affirmative responses from the Board.)

MS. MIRAMONTES: Okay. And then I heard about when it is in public use, more efforts to attract the public through perhaps different approaches to furniture. I don't think I heard other specific ideas but looking at that a bit more.

The walls themselves, seeking greater transparency.

SPEAKER: Add to that previous comment the idea that the planters may be a privatization element as well and should be rethought.

MS. MIRAMONTES: Okay. Yes, I did have a comment about the planters. There was a thought that it is not practical to move them and it would be difficult to be moving them back and forth.

SPEAKER: Time consuming.

MS. MIRAMONTES: Time consuming, creating a barrier when in place, fear that they may not move out of place.

CHAIR KRIKEN: You could also argue that it isn't exactly the home for plants on a wharf kind of environment. It's kind of --

SPEAKER: There is no very clear benefit to the public.

CHAIR KRIKEN: Yes.

BOARD MEMBER HIRSCH: And also there was a concern expressed about the west side, that becoming an extension of Scott's restaurant.

MS. MIRAMONTES: Right, right. The storage area on the west encroaching on public space.

SPEAKER: Yes.

MS. MIRAMONTES: I think those are the main comments that I gathered.

SPEAKER: I would add something to number three.

CHAIR KRIKEN: Sure.

SPEAKER: I would like to reinforce what you said, which is that maybe, even if it's 20 years later, Jack London Square is a much more lively and interesting place and getting more all the time. I think we should be open to a 21st Century idea about how you activate the waterfront and what things would be attractive. And if in some way there is a way to use some of what has been done in a way that, you know, maybe there's always a café out that end or maybe there's you know, other things that would enliven the space. That could be open to ideas about it.

(Several Board Members speaking at once.)

SPEAKER: Just to be open to ideas about that.

BOARD MEMBER STRANG: I have a question too about just clarifying the exiting from Scott's Restaurant because there was this question about the door that opens into that -- into the pavilion when the pavilion is in private usage. I'd just like to understand how that, how that works.

CHAIR KRIKEN: Good idea.

MS. MIRAMONTES: You mean in terms of exiting requirements and how those are dealt with?

SPEAKER: Yeah, is it -- yeah, is it really an exit or is it just a door from the restaurant into the pavilion?

MS. MIRAMONTES: Well, I think Scott's would be best to answer that. I believe it is an official, one of your official exits, right?

MR. FAGALDE: Yes.

MS. MIRAMONTES: The door into the --

MR. FAGALDE: Yes. So that rear door enters right into some of our rear, private banquet rooms. So there's three private banquet rooms in the rear there.

SPEAKER: So I guess -- I guess I'm just wondering, is it a code-required exit and then there's all this, you know. There are questions associated with that.

MR. FAGALDE: If all three banquet rooms are full that would be the only way to enter and exit that (inaudible).

SPEAKER: Yes. So I just think it needs a code check or whatever to make sure that works when the pavilion is in private usage.

CHAIR KRIKEN: Okay. So the exit --

MS. MIRAMONTES: And we should clarify whether you would like to see the project back again.

SPEAKER: Oh yes, most definitely.

CHAIR KRIKEN: I think that -- I think that's really the purpose is to have it come back with some consideration of these ideas.

Now as the last step in this process we have been going through we invite the applicant to respond to our discussion, if you would like to do that.

SPEAKER: It's not required.

CHAIR KRIKEN: It's not required.

MR. FAGALDE: I just want to thank you, the entire Board for taking the time to review it. We will take all the comments into consideration and we hope to come back with some nice edits and changes to the project. I just want to say thank you.

BOARD MEMBER HIRSCH: You're welcome.

CHAIR KRIKEN: Thank you.

MR. FAGALDE: Thank you.

MS. MIRAMONTES: I think we need a little bit of a short break to get the next agenda item ready.

CHAIR KRIKEN: Okay.

MS. MIRAMONTES: But we'll start pretty promptly.

(Off the record.)

(The meeting continued but was not transcribed.)

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# CERTIFICATE OF TRANSCRIBER

I, RAMONA COTA, a Certified Electronic Reporter and Transcriber, do hereby certify that I am a disinterested person herein; that I transcribed the foregoing portion of the San Francisco Bay Conservation and Development Commission Design Review Board meeting from the sound recording provided to me to the best of my ability.

I further certify that I am not of counsel or attorney for any of the parties to said meeting or in any way interested in the outcome of said matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of February, 2014.

/s/ Ramona Cota  
RAMONA COTA, CERT\*478



Al Klein / Bob Barta  
PProws / SFayalde / John Bowers / E Mira<sup>montes</sup> 4/17/2014

- 1) Planters - necessary evil / item; there to protect structure; disagrees that they are "consistent w/ wharf; many service vehicles; want to buy an hydraulic jack to move them; store them in delivery area & inside edge of that wall. Bob asks how long take down will be? "Not long". Same #. "What about not enough room?" Disagrees.

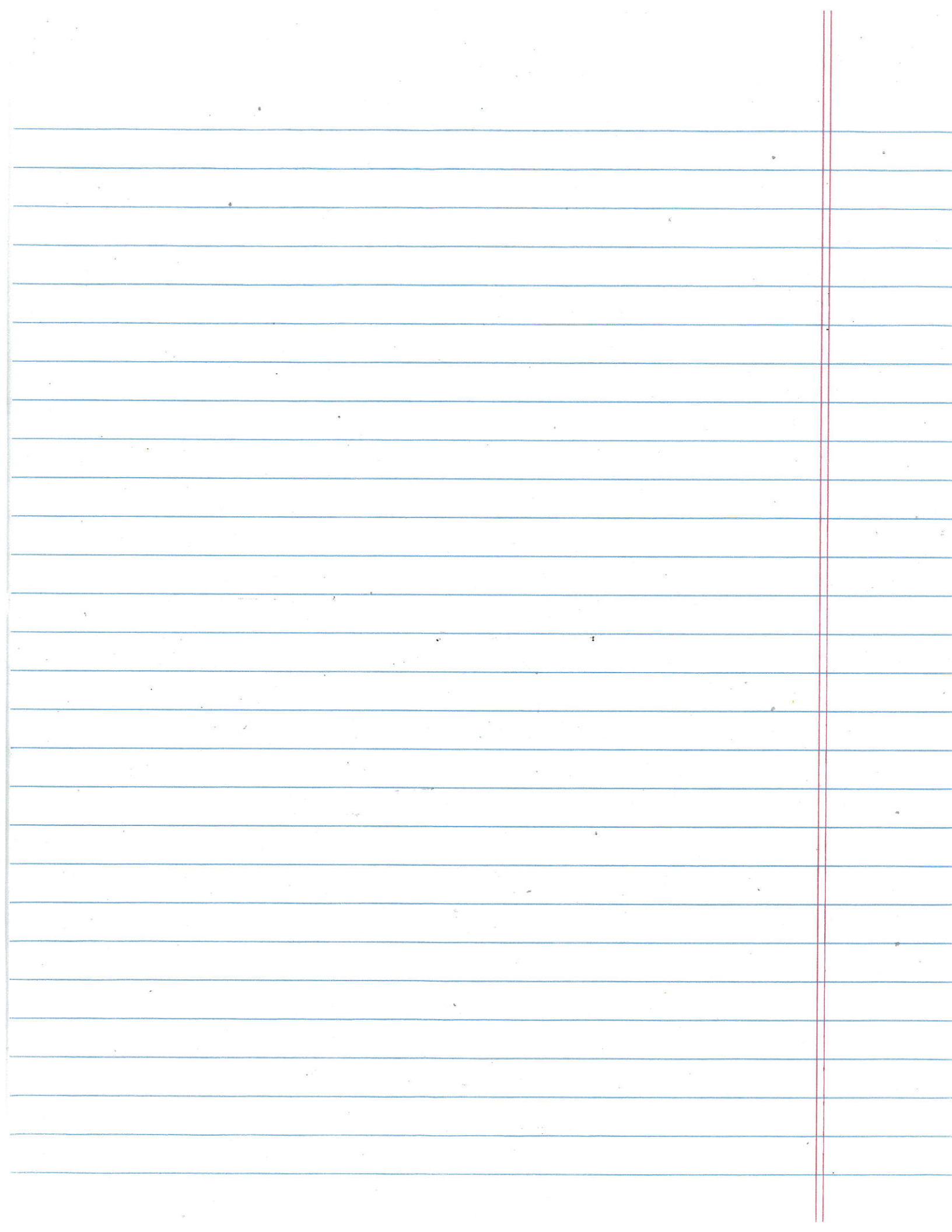
provides  
a landscape  
element

- 2) North Wall - Stacked panels can be done shortened. 4 panels. Steve stresses that he doesn't agree it's necessary. garbage area
- 3) Metal Entry Door - Retain metal entry frame. More doors in and out. Will store in storage room
- 4) Storage Room - Needs it. staging, chairs, tables. + lift

Ellen summarizes Steve's points.

When review Bob's points.

on point (3) roll-up doors, Steve says we rejected this ~~point~~ design. He made a mock up. Suggests Ellen was concerned that we could be no windows. Ellen does not remember





~~then~~ this. Says she told Steve he had a very tricky problem that

Ellen says there were 7 letters

guide - public, open. we saw the public benefit of a new system.

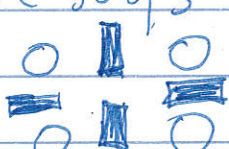

Point 3 - We need to see alternatives

Steve says he got negative responses about roll up idea so moved away from it

\* Earlier explorations, provide them

(4) 40 foot wall - Ellen asks why they didn't follow her direction. Always knew it it would be done but a lot more complicated. He will do it

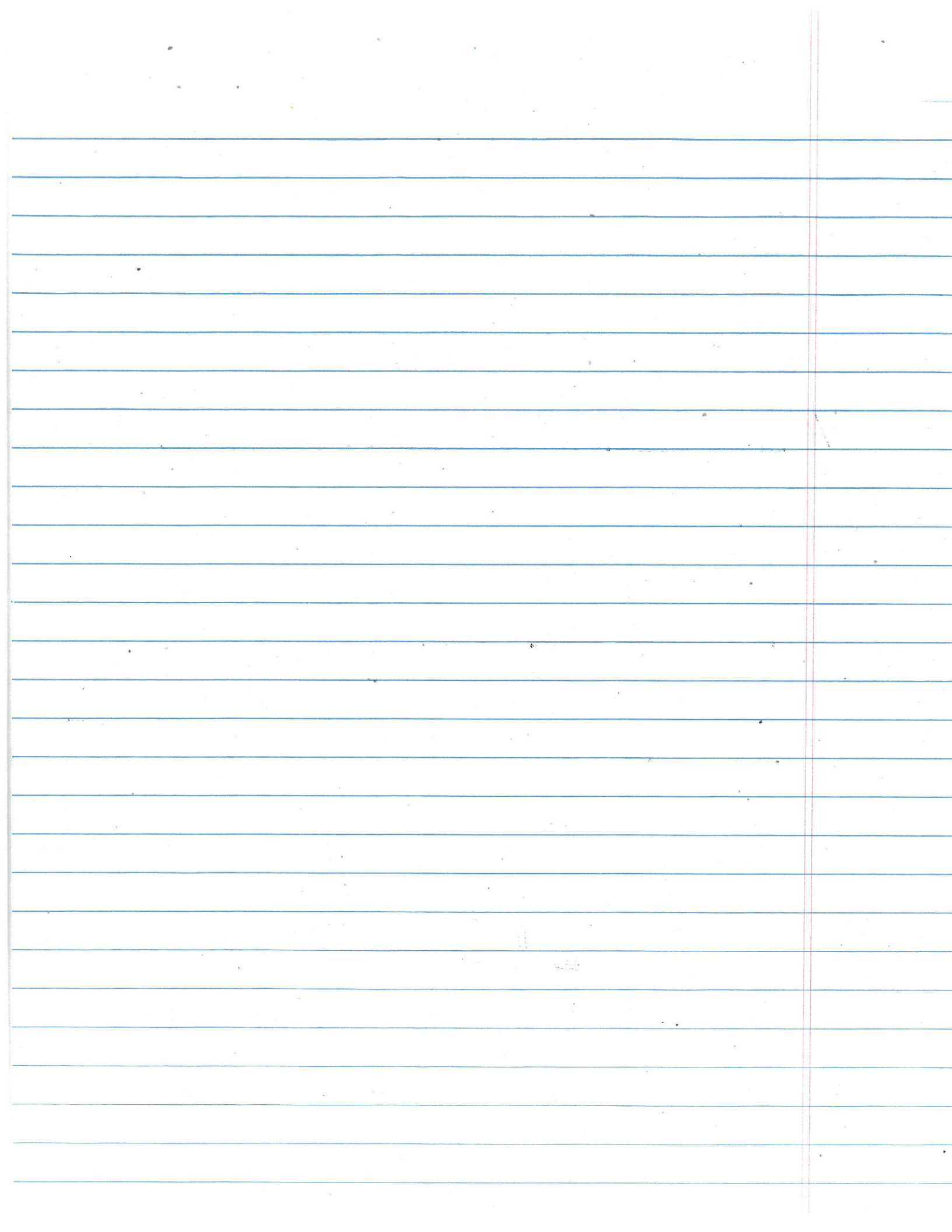
(5) I suggest looking at moving west wall so it's located in front of stage when stored.

(6) Peter - says there may be lease issues. Ellen says DRB wants a different layout. Steve says he was w/ a landscape architect  ← planters. Ellen and Bob reject  this idea

Propose alternative table layout...

I state P.S. signs are not in place

(~~7~~) They will make sure that happens.





(7) Transparency - Can you add ~~more~~ more windows. Steve says it's a dump. Sheet A.2.1 - Ellen asks for more windows on main entrance and waterfront sides. ~~Steve~~ Peter says people want privacy. These panels are more translucent than tent panels. New structure is an improvement.

(8) Planters - Peter suggests they'll ~~time how long~~ it takes to move planters. Steve ~~says~~ every thing about his restaurant is 1st class, Kincaids has dead plants. Says he has best bldg at JLS, cleaner than Port. ~~A new~~

(9) Can service door serve as 2nd door making repositioning of west wall ~~easier~~ to in front of stage easier

\$500K worth of improvements  
M. Stagg didn't report. Steve is new guard

Ellen asks for a response to all ~~the~~ points

I ask about how tent exits worked w/ Flaps, even though illegal

Elens notes :  
- share your proposals